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FINAL DOCUMENT OF THE SEMINAR ON TECHNICAL ASSISTANCE FOR AN INDEPENDENT NAMIBIA - THE ROLE OF THE UNITED NATIONS, HELD AT RIO DE JANEIRO, BRAZIL, FROM 4 TO 8 DECEMBER 1989

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INTRODUCTION AND OVERVIEW

1. The Seminar on Technical Assistance for an Independent Namibia - The Role of the United Nations was held at Rio de Janeiro, Brazil, from 4 to 8 December 1989. The United Nations Council for Namibia is deeply grateful to the Government and people of Brazil for hosting this third and final seminar organized by the Council in 1989.

2. The purpose of the Seminar was to assess the development and technical assistance needs of an independent Namibia; to increase understanding and support for those needs in the international community; and to consider the role of the United Nations system in mobilizing resources to meet them.

3. The participants included representatives of the United Nations, specialized agencies and other organizations of the United Nations system, other intergovernmental and regional organizations, the Brazilian Agency for Co-operation (ABC), as well as a delegation of Namibians expected to assume important policy-making and technical positions in Namibia after independence.

4. The Seminar was officially opened by Mr. Glodys St.-Phard (Haiti), Chairman of the Council delegation. The Chairman recalled that over the past two decades the United Nations, acting principally through the Council for Namibia, had sought to remove the political barriers to Namibia's independence while at the same time preparing Namibians in exile to assume technical and administrative responsibilities upon their return to a free and sovereign Namibian State. The training and assistance activities had been carried out through the United Nations Fund for Namibia, administered by the Council.

5. The Chairman pointed out that with the holding of elections and the formation of a Constituent Assembly in November 1989, the United Nations plan for Namibia had passed through its most crucial phase and prospects for an early declaration of independence appeared favourable. In anticipation of the difficult tasks of reconstruction and development Namibia would confront during the transitional and post-independence periods, the Council for Namibia had decided to organize three seminars in 1989. The first, the Seminar on Contingency Planning for Technical Assistance to Namibia during the Transition to Independence, had been held at Vienna from 24 to 28 July 1989 (A/AC.131/310 and A/AC.131/VIE/1/Rev.1). The second, the Seminar on the Integration of Namibia into the Regional Structures for Economic Co-operation and Development in Southern Africa, had been held at Harare from 23 to 27 October 1989 (A/AC.131/318). This, the third and final one, focused on medium- and long-term technical and development needs of an independent Namibia. It was hoped that the Seminar would yield specific proposals for technical and development assistance to Namibia that could be reviewed with the new government and put into operation soon after independence.

6. Mr. Eduardo Botelho Barbosa, Diplomatic Adviser to the Brazilian Agency for Co-operation, made an opening statement on behalf of the host Government, in which he reviewed Brazil's role in supporting independence for Namibia and contributing to the United Nations Institute for Namibia and to United Nations programmes for

the Territory, such as the Nationhood Programme for Namibia. The representative of the host Government said that Brazil looked forward to receiving Namibia as a member country of the zone of peace and co-operation of the South Atlantic and to establishing a relationship of technical co-operation with Namibia through ABC.

7. In the course of its own development process, Brazil had acquired technical capacities and know-how in various areas such as agricultural research, transportation, energy and public administration and was already involved in technical co-operation projects with several countries and organizations in Africa. The representative of Brazil believed that a similarly productive relationship could be established with an independent Namibia and any financial difficulties could be overcome by supplementing Brazil's own resources through tripartite agreements involving international funding organizations.

8. The representative of Brazil affirmed that technical co-operation among developing countries had many advantages as a form of development assistance to a newly independent country. The techniques acquired by one developing country were often particularly appropriate for other countries with similar socio-economic, geographical or climatic characteristics. The process also promoted closer ties in general among developing countries.

9. Mr. T. O. Emvula, a representative of the Namibian participants, made an opening statement in which he set forth some general policy considerations applicable to post-independence development assistance to Namibia. He recalled that the South West Africa People's Organization (SWAPO) had won the elections held in Namibia in November 1989 and was now leading the Constituent Assembly in drafting an independence constitution for Namibia.

10. The Government of an independent Namibia would like to see all Namibians working together to attain objectives common to the whole society. In addition to promoting social solidarity it would also ensure justice, including the rights to life and personal liberty, freedom of movement, expression, assembly, due process, and freedom from discrimination. The realization of those freedoms, however, would require not only an end to colonial occupation as such, but also the creation of conditions in which all Namibians could participate in decision-making and in directing the development of their society.

11. One of the most important factors in realizing the political aspirations of Namibians would be technical development which could be accomplished not only through foreign investment and the transfer of know-how, but also, and most important, through the training of skilled Namibian manpower. To that end, the existing efforts of United Nations bodies such as the United Nations Institute for Namibia in Lusaka and the United Nations Vocational Training Centre at Cuacra, Angola, should continue while institutions were being established in Namibia itself. Also, technical experts from international and national organizations should be seconded to Namibia to help overcome the scandalously high rates of illiteracy and backwardness in scientific and technological spheres resulting from colonial rule.

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12. Mr. Emvula said that while thorough-going social and economic reforms would be necessary after independence, they would not be carried out in such a way as to do serious harm to the existing standard of production and supply of commodities. He stated that Namibia would strive for economic independence from South Africa by vigorously encouraging the expansion and establishment of local industry, partly through state subsidies to collective and private enterprises. In the agricultural sector, emphasis would be placed on providing opportunities to farmers who had been excluded by colonial rule from owning, and farming on, arable land.

13. In closing, Mr. Emvula stated that the government of an independent Namibia would be committed to healing wounds inflicted on Namibian society during 105 years of colonial bondage and to uniting the people of Namibia.

14. Mr. Ngila Mwase of the United Nations Institute for Namibia reviewed the activities of the United Nations Fund for Namibia in the context of the preparation of Namibians for nationhood. In this regard, he stressed the manpower development activities undertaken particularly by the United Nations Institute for Namibia.

15. The activities of the United Nations Fund for Namibia had been geared towards the overall objectives established for the United Nations Council for Namibia, which included sponsoring the education and training of thousands of Namibians, followed by their placement in various institutions for practical experience; and preparing Namibians for nationhood through workshops and seminars and other educational activities.

16. That effort had been carried out in large part through the training activities, policy-oriented research and advisory services of the United Nations Institute for Namibia. The Institute's training activities had centred on a three-year Development Studies and Management diploma in economics, agriculture, law and politics and a secretarial studies programme. Two-year professional and job-oriented diplomas had also been offered in teaching, magistrates' training, public administration, diplomacy, business management and agriculture.

17. The Institute had conducted policy-oriented research leading to the publication of 17 monographs. The widely quoted comprehensive study - Namibia: Perspectives for National Reconstruction and Development (1986) had also been published. Current priority research areas included agrarian reform and smallholder agriculture, taxation, manpower, transport and communication and local government. The Institute had also now taken on the additional responsibility of providing advisory services to the emerging Namibian State.

18. Concerning the future of the Institute, various options had been considered including, in particular, making it a national institute of public administration, a department in a Namibian university, and others. Only the new Namibian government could make a decision in that regard in the context of an overall education and manpower development policy. Currently, the Institute was operating under a transitional plan whereby it would carry on in Lusaka until the end of 1990 to allow for ongoing programmes to be completed and for decisions to be made as to its future, including the provision of infrastructural facilities for its transfer to Namibia. That was an area where external assistance might be needed.

19. In conclusion, Mr. Mwase stressed the need for appropriate mechanisms to oversee the completion of ongoing training, research and consultancy activities. He emphasized the need for the United Nations and other supportive organizations to co-ordinate their efforts to reduce unnecessary duplication and to ensure cost-effectiveness in the provision of assistance to Namibia in the field of training, education and research.

I. AGRICULTURE, RURAL DEVELOPMENT AND FISHERIES

A. General

20. It is generally accepted that Namibia has considerable potential for expanding agricultural production. At present it is producing and exporting only a few raw materials, while most of the cereals and other food crops have to be imported from outside the country. Furthermore, most of the agricultural inputs such as machinery, chemicals, animal feeds, etc., as well as research, credit and marketing come from outside Namibia. As far as fisheries are concerned, it is generally known that marine fishing is Namibia's third most important sector, after mining and agriculture. Marine fishing represents an important self-renewing resource and, properly managed, can open one of Namibia's most important prospects for industrial development.

21. Agricultural development at the subsistence farmer level, combined with a vigorous rural development policy, is essential in an independent Namibia if the livelihood and well-being of over 70 per cent of the population is to be improved. The major problems facing this sector are the lack of research programmes at the appropriate level, marketing expertise, incentives, training facilities, professional advice and water.

22. Only 7,000 hectares of agricultural land, the largest user of scarce water resources in the country, are currently under irrigation. It is estimated that some 50,000 hectares might be economically feasible for irrigation. To develop much of such land would require increased abstraction from the border rivers which, in turn would require the new government to renegotiate existing agreements with neighbouring countries on the joint use of shared water resources.

23. In order to achieve food security on a self-reliant basis, the future agricultural policy will necessarily have to aim at:

(a) Implementing an agrarian reform programme;

(b) Increasing and diversifying food production;

(c) Establishing appropriate institutions to provide support services such as research, extension, etc.;

(d) Promoting food processing;

(e) Establishing an early warning and information system to monitor food production and the nutritional status.

24. It was pointed out that in its agricultural policy the government of an independent Namibia would be committed to land reform in order to redress the imbalance created by the colonial policies of land allocation on a racial basis. The land occupied by absentee landlords (i.e., 48 per cent of the 6,000 farms (cattle and karakul ranches)) and some of the land of farmers owning many farms will be redistributed to the landless. There will be no full-scale nationalization of the land. Instead, state farms, co-operatives, peasant family farming units, and private commercial farms will be promoted.

25. A commitment will also be needed to provide the necessary support services to the agricultural sector in the form of credit, marketing, extension services for peasant farmers, infrastructure and adequate producer prices. It might also be necessary to transfer a considerable part of the state revenues from the mining sector to the development of agriculture. Another priority would be to promote the establishment of agro-industries, such as grain mills, fertilizer plants, timber mills, edible oil refineries, as well as bag making, food processing and packing and canning factories, and the production of simple agricultural implements. A local processing and manufacturing industry can be established in order to export pelts as finished products.

26. The government of an independent Namibia will also take immediate corrective measures to rehabilitate the fishing industry; declare a 200-nautical-mile limit exclusive economic zone off the Namibian coast; and introduce appropriate levies for all fishing rights to foreign fleets fishing in Namibian territorial waters.

B. Technical assistance needs

27. The task Namibia is facing in the agricultural sector is consequently complex and enormous and cannot be achieved by the country alone within a reasonable period of time. Technical assistance is needed which could come through various sources, including regional co-operation and integration (co-operative arrangements with countries in the subregion and regional groups such as the Southern African Development Co-ordination Conference (SADCC), the Preferential Trade Area (PTA) for Eastern and South African States and the African, Caribbean and Pacific States (ACP), as well as through the United Nations system or bilateral sources. The Food and Agriculture Organization of the United Nations (FAO) has already participated in several fact-finding missions sponsored by the United Nations Development Programme (UNDP). A rather detailed assessment has been made of Namibia's technical needs which includes reintegration and resettlement of returnees, agricultural policy formulation, food security, land use and management, establishment of appropriate support services, increased food (crop) production for local consumption, forestry and environmental management programmes, manpower development and rural development (employment and investment opportunities, agro-industry, etc.).

28. In order to develop viable projects in these technical areas, it is essential, first of all, to determine options and priorities to enable the future government of Namibia to take decisions on policies, planning and programming. FAO consequently suggests to carry out, as a first step, surveys on:

(a) Socio-economic indicators such as settlement patterns, density of population, structure of families, land ownership, migration, etc.;

(b) Technical indicators such as total agricultural area, crop yields, labour availability, prices, markets, etc.;

(c) Soil and water resources for potential agricultural land, their uses and management, including irrigation;

(d) Livestock industry and range management;

(e) Remote sensing.

29. Bearing in mind the specific mandate of the International Fund for Agricultural Development (IFAD) to mobilize additional resources to help the poorest groups in its developing member countries to grow more food, reduce undernutrition and alleviate rural poverty, there is scope for co-operation between an independent Namibia and IFAD.

30. In conformity with the agreement establishing IFAD, assistance to Namibia can be initiated as soon as the latter becomes a member of the Fund. This co-operation would draw considerably on experience with member countries of SADCC, particularly Botswana and Angola, which share geopolitical similarities with Namibia.

31. As a sub-Saharan African country confronted with drought and desertification problems, Namibia would be eligible for assistance under IFAD's Special Programme for Sub-Saharan African Countries Affected by Drought and Desertification (SPA), for which pledges totalling some $US 286 million have already been mobilized.

32. IFAD's assistance could cover, inter alia, sectors such as credit for the rural poor, women in development, technical and scientific research, environment preservation and manpower development, particularly in the context of IFAD's regional Agricultural Management Training Programme for Africa (AMTA).

33. Once Namibia joins IFAD, a general identification will be mounted to assess further the needs of the country and prepare relevant projects.

34. The Director of the Rössing Foundation in Namibia stated that agencies of the United Nations system, donor countries and aid organizations could best contribute by:

(a) Providing trained agricultural extension officers and horticulturists;

(b) Assisting in the development of rural infrastructure, including electric power to allow the use of television to formulate education and rural development;

(c) Helping to introduce a needs-directed curriculum in schools with emphasis on practical agricultural/horticultural training;

(d) Promoting the establishment of rural industries along the lines of the Botswana model, including vegetable gardens, blacksmiths, tanneries, bakeries, and sewing, knitting and weaving co-operatives;

(e) Funding more research programmes.

35. The Director said that the existing "commercial" sector, which is in the hands of white farmers, should be retained, with some high-technology input, if appropriate. The "non-commercial" sector must be encouraged and nurtured with training, appropriate technology and a very active programme to involve women in the development.

36. The representative of the African Development Bank indicated his organization's willingness to consider financing water resources studies in view of the obvious importance of the sector for economic and social development in Namibia.

37. It was pointed out that development needs in the fisheries sector will include monitoring and managing, including effective control and surveillance, of fisheries resources; fisheries administration and planning; management strategy for the recovery of fish stocks; development of the processing industry; manpower development; and Namibianization of the fishing industry.

38. In this context, FAO has already submitted to UNDP proposals concerning the preparation of laws declaring and governing the 200-mile exclusive economic zone, as well as guidelines for possible access agreements. Furthermore, FAO has identified as a high-priority activity the provision of economists and planners to assist the Namibian government in managing the fisheries resources and in training manpower for the sector.

39. In addition, the representative of the International Maritime Organization (IMO) recalled the need for enforcement capabilities to police the exclusive economic zone through the establishment of a national coast guard. This service would help in the protection and preservation of fisheries resources by ensuring that foreign fishing vessels operate in accordance with the licences granted by the government. The IMO representative stated that his organization would be willing to assist the new government in establishing an efficient and cost effective coast guard.

II. TRADE AND INDUSTRY

A. Industrial development

Situation of the Namibian manufacturing sector on the eve of independence

40. At independence, Namibia inherits an incipient manufacturing sector and a mineral-dominated economy. The fragility of Namibia's manufacturing sector - whose marginal value added accounts only for 4 to 5 per cent of the gross domestic product - manifests itself in the colonial legacy, imposed dependence on South Africa in trade orientation, inadequate input supplies, limited domestic market,

lack of educated and trained entrepreneurs, water scarcity and high energy and transport costs. The country will have to foster industrialization from scratch with the virtual non-existence of essential ingredients such as capital, skilled labour, technical know-how, institutional infrastructure and policy direction.

41. As part of a national industrialization strategy, Namibia will need to enhance its import substitution capacity, diversify its manufacturing base and promote exports, possibly by first reinvesting the export revenues from its current minerals and other primary products depending, of course, on world demand. The interlinkages between manufacturing and the other sectors of the economy, particularly agriculture, mining, fisheries and services, are crucial in this context.

42. For the mining industry, the new government will propose that a national diamond corporation be formed and studies undertaken to determine a suitable mode for trade in diamonds. A diamond-cutting industry should be established to increase value added.

43. For uranium sales, three alternatives might be considered:

(a) To ratify the existing contracts subject to review of their terms, especially in respect of quantity and prices;

(b) To abrogate the existing contracts within the context of Decree No. 1 for the Protection of the Natural Resources of Namibia; 1/

(c) To enter into a joint venture with existing or other mining companies for production and marketing.

44. A national metal marketing corporation should be established for trade in base metals, as well as a national petroleum corporation to import, process and distribute petroleum products.

45. Selective importation of motor vehicles, equipment and spare parts should be carried out through a multi-product state trading corporation or through an entirely new motor trade and equipment corporation to be established for the purpose.

46. For the marketing of agricultural goods, the new government will propose the creation of a dairy control board, a national livestock and meat corporation, a grain control and cash crop corporation and an agricultural supplies corporation.

47. The government of an independent Namibia should also consider the establishment of a national fisheries corporation to assume responsibility for all ocean fishing, processing and marketing, and of fisheries co-operatives which will catch and sell their fish to the corporation and to consumers at the point of landing.

48. A roster should be prepared showing the distribution of expertise among Namibians who have undergone training in the trade sector.

Possible role of technical assistance by the United Nations Industrial Development Organization in the industrial development process of Namibia

49. The preparation of an in-depth industrial sector survey would be useful and necessary for the industrial planning and policy formulation efforts of the new government. Such a survey should be followed by the elaboration of a programme for strategic management of industrial development (Industrial Master Plan), taking particularly into consideration the potential sectoral opportunities for further industrialization.

50. The institution-building of government entities administering industrial development, including the relevant training programmes, appears to be the next important area for assistance by the United Nations Industrial Development Organization (UNIDO). This may include the establishment of an industrial development corporation and eventually an industrial development bank taking into consideration the existing First National Development Corporation (FNDC).

51. The wide field of human resources development in industry calls for both emergency assistance to keep manufacturing activities going to the maximum extent possible after independence and for medium-term revenues, such as the establishment of local industrial training facilities. Study tours, fellowships and integrated training programmes at the plant level should play an important role.

52. Technical assistance might be necessary to maintain and strengthen the existing manufacturing base, particularly the agro-industry sector and the repair and maintenance facilities.

53. The small- and medium-scale industry sector requires particular attention since it raises local per capita income by creating jobs where they are most needed, particularly in rural areas. UNIDO assistance appears to be particularly relevant in the rapid fostering of small-scale industrialization in the densely populated north, as well as in the development of local entrepreneurship by helping to establish micro-businesses for manufacturing.

54. Developing and strengthening Namibia's national capacity for carrying out pre-investment analysis seems to be crucial to help the country attract, assess and evaluate internal and external financing proposals for industrial investment programmes and projects.

55. In co-operation with other organizations of the United Nations system, UNIDO has developed a programme to determine the technical, economic, financial and social feasibility of producing aids for the handicapped. Parallel to this, a programme is being developed in collaboration with the World Health Organization (WHO) for pre-investment analyses to assess the financial viability of medical consumables being produced locally in the developing countries. Namibia could be an excellent case for introducing and putting this new programme into practice.

56. In order to diversify and expand the manufacturing base, subsectoral surveys should be conducted to identify prospects in the field of import substitution as well as export promotion, particularly in the following subsectors: fish and meat

processing; diversification of the dairy products industry; leather manufacturing (especially karakul pelts); wool processing; can production; oil seed crushing; production of animal feeds; production of organic fertilizers; establishment of a local cement industry; processing of minerals on a small-scale basis, including construction materials other than cement; salt production, etc.

57. There are a number of operational UNIDO regional technical assistance programmes from which Namibia might benefit. These programmes cover the following sectors: hides and skins; leather and leather products improvement and tannery rehabilitation schemes; environmental testing for telecommunications equipment; engineering design and manufacturing; petroleum industry training; and standardization and metrology.

58. UNIDO proposes to send to Namibia as soon as possible a multi-faceted fact-finding mission in industry to identify concrete technical assistance requirements and prepare the relevant terms of reference for programmes and projects. If deemed relevant, potential special-purpose donors may consider joining that mission in view of possible project financing through the Industrial Development Fund.

B. Transnational corporations

59. The involvement of transnational corporations in Namibia has been, historically, extractive and exploitative. Transnational corporations can make a very important contribution to the development of Namibia, however, if current relationships are appropriately restructured with a judicious combination of foreign investments, joint venture arrangements and non-equity links that are consistent with development objectives and that take proper account of fiscal, economic and social needs. This will not be an easy task, and in designing and executing the new policies the government will need considerable technical assistance from bodies such as the United Nations Centre on Transnational Corporations (UNCTC).

Advisory services

60. In the general legal and administrative framework, the Centre could provide advisory services for (a) devising a new company law (under the present law, South African companies are not considered foreign companies); (b) drafting legislation on foreign investment and technology transfer; and (c) developing and streamlining the institutional machinery for screening, approving, monitoring and promoting foreign investment.

61. The Centre could also advise on the foreign investment régimes relating to particular sectors, such as mining, petroleum and fisheries.

62. A major aspect of the advice relating to primary activities would be to give guidance with respect to appropriate fiscal and financial arrangements.

63. The need for renegotiation of existing agreements with transnational corporations could give rise to the preparation of (a) a strategy paper dealing with the approach to renegotiations (position paper); (b) guidelines with respect to renegotiations in specific sectors; and (c) review of particular contracts and agreements (with possible participation by an expert as a member of the government team in the actual renegotiations).

64. In the field of information services, possible projects include (a) identifying companies with international expertise and providing information on their technical and financial strengths and their experiences in other developing countries; (b) providing information on current contractual terms and conditions in various sectors and industries in developing countries, and (c) providing copies of laws and regulations relating to foreign investment enacted by other developing countries.

Training services

65. With respect to training services, the following workshops are recommended: "Evaluating and negotiating joint venture arrangements", "Fiscal and financial arrangements in the mining sector", "Transfer pricing" and "Entrepreneurship development and links with transnational corporations". The latter would involve the Centre's identifying potential business persons and providing them with legal, managerial and technical expertise to start up enterprises and establish linkages with transnational corporations.

66. The proposed advisory and training activities do not purport to address all of the needs of a newly emerging Namibian State. However, they constitute some of the important elements of a comprehensive technical assistance programme with respect to the activities of transnational corporations. UNCTC stands ready to respond to any ad hoc request for additional assistance that is made by the government of Namibia, or to any suggestions for modifying the above programme. The Centre is also prepared to collaborate with other United Nations bodies and regional and international agencies in the execution of the above projects.

C. Intellectual property

Mission to assess needs

67. A fact-finding mission of the World Intellectual Property Organization (WIPO) could visit Namibia to assess the needs and collect basic data for the preparation of a possible future advisory programme. The mission would evaluate the existing intellectual property infrastructure and, inter alia, assess the existing legal régime for protection of intellectual property; determine the text and date of existing legislation on industrial property and copyright, if any; assess the post-independence status of such laws and of industrial property registrations effected prior to independence; and collect data on patent, trade-mark, designs and other industrial property titles of protection granted or applied for in the country.

68. In relation to industrial property and copyright, the mission would investigate (a) the present and future ministerial responsibility for these matters; (b) the existence of an industrial property registry; (c) the number of, and professional competence of, industrial property officials and officials concerned with the administration of copyright, if any; and (d) the existence of professional associations of scientists, inventors, writers or similar societies.

Technical assistance in the field of industrial property and copyright

69. Assistance can be offered to an independent Namibia in:

(a) Drafting new or revising existing legislation;

(b) Establishing or improving the administrative infrastructure for implementation of the new legislation;

(c) Organizing training for government and other officials concerned with the administration and utilization of industrial property and copyright;

(d) Facilitating participation of the country in the relevant activities organized by WIPO;

(e) Establishing a patent information centre for storing technological information contained in patent documents for national industrial and research and development activity;

(f) Promoting domestic inventive and innovative activity and establishing an inventors' association;

(g) Establishing an organization of national authors for the protection of national creativity.

70. Currently, two African regional organizations, each with 14 member countries, deal with industrial property. They are the African Intellectual Property Organization (OAPI) and the African Regional Industrial Property Organization (ARIPO). An independent Namibia could consider joining ARIPO as a means of integrating itself into the existing regional institutions.

D. Tourism

71. Owing to its character as an aggregate and complex product, tourism (international as well as domestic) has an impact on a great many economic activities, which could make it one of the driving forces of the national economy. The magnitude of its contributions will hinge on the priority tourism enjoys in the national development plan and, accordingly, on the amount of financial and technical assistance directed towards the sector.

72. Tourism contributes to the acceleration of the development process and the diversification of the sources of income in the balance of payments; promotes

domestic entrepreneurial initiative and the use of national resources and economic factors; generates new employment opportunities, especially for women; promotes small and medium-sized enterprises; and redistributes income functionally and geographically (regional development).

73. In addition to this economic role, tourism also has an important role to play in the social, cultural and political spheres. International tourism is a factor conducive to the strengthening of peace and the reaffirmation of Namibia's place in the world through direct and mutual understanding among people. From a national standpoint, tourism offers citizens a means of improving their knowledge of their own country and of heightening their sense of nationhood and their feeling of belonging to a cultural system and independent country.

74. Tourism is a viable activity in Namibia. The country already possesses some tourism-receiving capacity and a high tourism potential based on its rich cultural and natural assets, which differ in some respects from those of neighbouring countries. This gives Namibia a marketing opportunity to offer a differentiated tourism product, for which there is a growing segment of demand, mainly in Europe, as well as in other tourism-generating countries.

75. On the strategic basis established by the new Namibia government, it should be possible to draw up a blueprint for development which should have as its fundamental criteria co-operation among all sectors involved, which will be many, given tourism's complex nature; training of human resources; protection of the country's cultural heritage and nature; and the utilization of locally available resources. In all this, the aim should be to develop a sector that is efficient and as little dependent as possible, and to increase constantly the contribution of the tourism sector to the national economy.

76. In accordance with its statutory mandate and the central and decisive role in the field of tourism assigned to it by the United Nations General Assembly, the World Tourism Organization (WTO) is ready to provide the government of Namibia with the appropriate technical assistance for the development and promotion of tourism.

77. Technical co-operation will be required for the sector in connection with the establishment of appropriate machinery for the administration of tourism; the establishment of a legal and statutory framework capable of protecting the activity and promoting its development; the creation of a system for the professional training of managers (public and private) and providers of services (keeping in mind the specific needs of small- and medium-sized enterprises) that is capable of ensuring independent and sustained development; the planning and establishment of the required infrastructure and facilities; and the planning of the necessary management and promotional activities. In the field of technical co-operation, Namibia could benefit also from the subregional projects and training programmes that WTO provides.

78. These categories may be elaborated upon through a technical mission which WTO is prepared to undertake. The mission's recommendations would provide the basis for formulating the required programmes and projects which would determine, within the national development plan, the strategy that would be best to employ for the tourism sector in Namibia.

E. Trade and development

79. In the area of trade and development, an independent Namibia will need technical assistance in the following:

(a) To determine whether to remain in the Southern African Customs Union (SACU) and, if so, on what terms;

(b) To set up an autonomous national customs and fiscal administration;

(c) To decide on the modalities for joining the Preferential Trade Area (PTA) for Eastern and Southern African States;

(d) To work out a strategy for deriving maximum benefit from trade-related programmes established by SADCC;

(e) To strengthen its external sector and to integrate better its foreign trade into the international trading system.

80. Subject to the availability of adequate financial resources, including those for a fact-finding mission, the United Nations Conference on Trade and Development can (UNCTAD):

(a) Assist Namibia in assessing whether to remain in SACU and, if so, in preparing a negotiating position in the ongoing negotiations for the revision of the SACU Agreement;

(b) Contribute, with other appropriate institutions, to the establishment of a modern Namibian national customs administration;

(c) Study the modalities under which Namibia should join PTA;

(d) Include Namibia in its subregional project on transit, transport, and support to the transport sector in southern Africa;

(e) Assist Namibia in taking advantage of the Generalized System of Preferences (GSP) within the framework of the UNCTAD project, and in preparing for negotiations to join the General Agreement on Tariffs and Trade (GATT) and the Uruguay Round of GATT Negotiations, as well as the Lomé Convention;

(f) Train Namibians to develop their ability to undertake and conclude trade negotiations; advise the future government department dealing with trade on trade policy matters, and familiarize Namibians with the techniques for trading with the socialist countries of Eastern Europe;

(g) At a later stage, assist Namibia in participating in interregional programmes for economic co-operation among developing countries, such as the Global System of Trade Preferences (GSTP) among Developing Countries.

III. UTILITIES, TRANSPORT AND COMMUNICATIONS

A. General

81. As in other sectors of the Namibian economy, water resources have been used to meet the farming needs of the minority white community. There is an unequal distribution of scarce water resources favouring the white urban areas and commercial farmers.

82. Water usage planning will be absolutely essential but must conform to the immediate needs of Namibia. It will also have to be integrated with wider economic issues and land use geared to: (a) meeting the basic needs of all Namibians for enough water for drinking, washing and other domestic use; (b) providing and maintaining a reliable supply of water for agriculture, mining and industry; and (c) training Namibians swiftly so as to localize the water supply staff in the country.

83. Rational water resources planning will require the careful examination of different kinds of demands, each presenting unique problems:

(a) Urban, industrial and mining: large demands, but users can afford to pay a relatively high price for water;

(b) Irrigation: large demands, but only for cheap water;

(c) Rural, including water for stock: small demands; if there is local water of adequate quality and reliability, the quantity will be sufficient.

84. Transport in Namibia under the South African illegal occupation has been neglected. The road network in the country was geared mainly to facilitating the war effort of the colonial régime.

85. The network of roads and railway has not helped the rural people to develop a market-oriented economy and has stifled rural development. Similarly, in so far as the majority of the population is concerned, the public transport facilities are totally inadequate. Within the context of the foregoing, the government of an independent Namibia would need to focus on the following:

(a) Development of farmer-to-market roads in rural areas and integration of these roads with the railway network;

(b) Improvement and construction of roads to link Namibia with its neighbours;

(c) Provision of public passenger transport service at a price that the market can bear, which could involve government subsidies;

(d) Rationalization of war-time roads with the needs of reconstruction and the development of the national economy;

(e) Organization of State-controlled or regulated haulage;

(f) Maintenance of skeletal road services in consonance with the level of trading activities.

B. Power and energy

86. There is a clear potential for increasing hydroelectric power generation at sites along the northern border rivers. Some co-operation with Angola will be necessary to develop new sites. Increasing hydroelectric power production will enable Namibia to reduce dependence on South Africa and replace some of the current thermal production. The development of alternative energy supplies would also help to combat the destruction of forests resulting from the extensive use of wood fuel by a large part of the population.

C. Water resources

87. The water resources sector is controlled by the Department of Water Affairs which is responsible for supplying water in bulk to municipalities, small towns, mines and the rural areas for agricultural, industrial and domestic purposes. There is an uneven and inequitable distribution of rural water supplies with an estimated 50 per cent of the population of the northern districts lacking easy access to safe and reliable sources of water.

88. There is an imperative need for an expanded rural water supply programme in the northern and north-eastern regions. This should be linked, preferably, to integrated rural development programmes aimed at increasing the per capita income of the population in order to avoid the need for direct subsidies.

89. With regard to training, substantial efforts are required to fill existing vacancies within the Department of Water Affairs and to ensure a continuing supply of professionals and technicians for the sector. The United Nations system can help to establish training programmes and to provide short-term staff to fill temporary vacancies. The system can also assist in the transfer of new technology, especially mathematical models used for the management of water resources.

90. Technical assistance may be required in two areas, i.e., completing the hydrogeological investigation of the Grootfontein-Tsumeb-Otavi triangle where careful management of the ground-water resource is required, and in reviewing the economic viability of completing the Eastern National Water Carrier in the light of possible new priorities within the new government.

91. A considerable body of information exists in the form of surveys and water master plans prepared by the Department of Water Affairs. Much of this relates to the northern districts which are likely to become priority areas for water resources development in the post-independence period. Since this information would be of great help to all external support agencies and non-governmental organizations active within Namibia, a request should be made to the Department of Water Affairs to make the surveys and plans more freely available to such agencies.

92. As mentioned in the section on agriculture (para. 36), the representative of the African Development Bank indicated his organization's willingness to consider financing water resources studies in view of the obvious importance of the sector for economic and social development in Namibia.

D. Maritime transport

93. In the developing countries, over 90 per cent of international trade is carried by ships and passes through ports. There is every reason to believe that this will be the case in Namibia and that maritime transport will play a major role in the socio-economic development of the new nation. But such wide use of shipping requires global standards to ensure safe and efficient operations and protection of the marine environment from pollution by ships, which are the twin goals of IMO.

94. Namibia will have to implement these globally accepted standards if it is to participate fully in international sea-borne trade. IMO has given the highest priority to the provision of advisory services and training to help developing countries implement these standards. It has already provided some assistance to Namibia in the form of training of port managers and operators as well as maritime safety administrators. With adequate donor financing, IMO can continue to provide assistance to Namibia. Initially, IMO could send a sectoral support mission to help the new government to identify priority areas for action which may include the establishment of a maritime administration to develop policy and regulate maritime activities; the preparation of national maritime legislation to implement international standards; the establishment of a maritime training capability to meet future manpower requirements; the establishment of a national coast guard to police the exclusive economic zone, preserve rich marine resources, and provide related services such as search-and-rescue operations; the prevention of marine pollution from ships for the protection of the marine environment; the maintenance of safe and efficient technical port operations; and the transport, handling and storage of dangerous goods.

95. Emphasis would be placed on the training of Namibian maritime cadres at the World Maritime University, the IMO International Maritime Academy, the IMO International Maritime Law Institute, regional African training centres and other centres providing specialized training. IMO would also emphasize the role of women in, and their training for, the development of the maritime sector; the integration of Namibia in regional maritime organizations dealing with shipping and ports; and the utilization of Technical Co-operation among Developing Countries (TCDC) modalities for the provision of advisory services and training opportunities offered by developing countries such as Algeria, Brazil and Egypt.

E. Civil aviation

96. In civil aviation, safety should be the main consideration in the provision of facilities and services in accordance with international standards and recommended practices. A recent mission to Namibia by a team from the International Civil Aviation Organization (ICAO) assisted the Department of Transport in defining a civil aviation structure and identifying major shortcomings in the civil aviation subsector in the area of management, maintenance and operation of the facilities and services.

97. The civil aviation subsector in Namibia is experiencing a severe shortage of management, maintenance and operating personnel and a recruitment and training programme will be required if safe air transportation operations are to be secured. In the short term, the use of United Nations volunteers is recommended to fill personnel vacancies in essential functions.

98. Aeronautical telecommunications equipment and navigation aid facilities owned by the South African Air Force need to be replaced and efforts should be pursued strenously to secure funding for the procurement of replacement equipment.

99. At independence, Namibia may not inherit the traffic rights enjoyed by South Africa and will need to initiate, as a matter of urgency, negotiations with other States in order to exercise its rights. There will be a need to enact civil aviation laws and regulations governing the installation and operation of civil aviation facilities and services. A national civil aviation master plan should be prepared and presented.

100. Namibair, the national airline, should be strongly supported through a training programme to be financed by international funds, aimed at assisting its development.

101. A project formulation framework with a total range of assistance (i.e., expertise, training and equipment) estimated at approximately $US 10 million has already been presented by ICAO to UNDP in Windhoek.

F. Telecommunications

102. During the initial period of independence, Namibia may suffer from a brain drain as a result of the departure of many white technicians working in the industry and services. This pattern has been experienced by other countries such as Zimbabwe.

103. The repatriation of trained Namibians will alleviate, but not solve, the most critical problem that Namibia will experience, i.e., the lack of qualified technical manpower necessary to sustain the provision of essential public services of acceptable quality, including telecommunications. Growth or expansion may not be feasible for some time.

104. This implies that during the next two or three years technical assistance programmes for Namibia should have a dual function: first, to ensure that important technical services can continue to be provided satisfactorily; secondly, to concentrate on human resources development through a process of transferring expertise.

105. At the same time an institution-building or strengthening programme will be necessary. A telecommunications corporation must be established along the lines proposed by project NAM/79/010 of the Nationhood Programme, updated as necessary. The assistance of Operational Assistance (OPAS) experts will be essential in carrying out this exercise.

106. The above applies to radio and television broadcasting services. A South African-sponsored project for the establishment of a studio production centre has been suspended and most activities concerning institutional and infrastructure aspects remain to be carried out. The assistance of the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Telecommunication Union (ITU) will be needed to complete such a complex project.

107. ITU is in a position to send a mission financed from its regular budget for the purpose of carrying out a complete sectoral study. The effective regional presence of ITU, notably the Area Representative based in Harare, and the Regional Expert for human resources based in Nairobi, will assist in this effort. Initial urgent training problems may be solved with the assistance of the national and regional centres located in the African continent. A programme of fellowships partially funded by ITU can be arranged for selected senior telecommunication staff. Namibian engineers and technicians will also be involved in the activities of ongoing UNDP/ITU regional projects, in particular the Pan-African Telecommunications Network (PANAFTEL), which addresses network expansion, operation and maintenance problems.

108. ITU is ready to assist Namibia to the maximum extent possible from its own resources and through its regional presence and ongoing regional technical co-operation activities as well as in co-ordination with the Southern Africa Transport and Communication Commission (SATCC).

109. Should the need for sizeable projects arise, ITU will act as executing agency. The funds for such projects must be allocated from the national indicative planning figure (IPF) or obtained from donor countries/organizations through mechanisms such as the Special Voluntary Programme for Technical Co-operation.

G. Postal services

110. The Universal Postal Union (UPU) does not at present have full information with regard to Namibia's postal services or the availability of trained human resources capable of operating the postal services. As for the technical assistance provided for Namibia, UPU co-operated with ITU in the implementation of a UNDP-financed project for the vocational training of a number of nationals of Namibia, 15 of whom are serving with the postal administration of Zambia. In view

of the urgency of formulating an integrated postal project, UPU is willing to help by providing the services of a consultant in early 1990 to achieve the following objectives:

(a) To study the overall situation of the postal services in order to evaluate the resources available in the field of postal services, to pinpoint sectors with shortcomings which could hamper the country's general development and to ascertain the resources needed to correct them;

(b) To formulate a technical assistance project for postal services to be funded by UNDP or by other sources and, as appropriate, to submit requests for inclusion in the multi-sectoral programme or projects concerning questions such as planning, reform of the public sector, communications, promotion of domestic savings, etc.;

(c) To advise the government of an independent Namibia, if necessary, on pressing organizational questions.

111. In the mean time, depending on its modest resources, the International Bureau will undertake action to train certain Namibian postal staff in the existing national and regional training centres of the subregion. Furthermore, it is possible for UPU to help in recruiting immediately the required staff to replace those who will have left Namibia, with a view to maintaining the continuing operation of the postal services.

IV. HEALTH, SHELTER, EDUCATION, LABOUR AND HUMAN RESOURCES DEVELOPMENT

A. General

112. In the health field, it was pointed out that the government of an independent Namibia will establish a nation-wide network of public health centres, clinics and hospitals. It will also improve the training of health personnel. To this end, medical and nursing schools will be established to train doctors, laboratory technicians, radiographers, psychiatrists and public health inspectors to man the health institutions adequately.

113. Traditional medical practice will be accommodated to enhance research and the utilization of an important local medical resource. The provision of public preventive and curative health care services for all Namibians will be a high priority for the new government which will also strive to introduce primary health care services throughout the country.

114. The new government will view education and training as the right of every Namibian and not as a privilege and would work to correct the wrongs of the past stemming from Bantu education.

115. Education will be at the centre of the transformation of all Namibian society and will be universal and compulsory for all Namibians of school-going age. The

new government will encourage and subsidize nursery schools to better prepare Namibian children for their long and important educational journey to adulthood. The government will provide seven years of basic education at the primary level and three years at the junior secondary level. Education will be compulsory up to the important part of the senior secondary school curriculum to prepare students for further technical, vocational and professional training. Priority will be given to the expansion of teacher training and the production of appropriate educational materials.

116. Students unable to proceed beyond junior secondary school level would be encouraged to continue their schooling at junior polytechnics to develop skills in fields such as metal work, carpentry and bricklaying. Senior secondary school graduates will be given the opportunity to advance to universities for degree studies or progress to specialized institutions, such as institutes of technology, agricultural schools, fishery institutions, commercial schools and so forth.

117. A mass literacy campaign will be carried out to eradicate the colonial humiliation of being denied the opportunity to learn to read and write. Provision will be made for adult education through on-the-job training and extension, continuing education, non-formal education as well as programmes to develop other skills. Provision will also be made to cater to the special educational needs of the disabled and handicapped members of Namibian society, such as war victims, the blind and deaf and dumb, the emotionally disturbed and the physically disabled.

118. Rural and urban areas will receive equal education opportunities. All districts will have government secondary schools and all regions will have specialized state institutions of tertiary or higher education which will be affiliated to the national university.

119. Culture is a product of history. In a situation where a nation is dominated by another, the culture of the dominated nation will always carry the mark of domination and oppression. The Namibian people's cultural development was suppressed and retarded for over a century. An independent Namibia will promote the revival and development of the people's cultural expression and creativity.

120. The government of an independent Namibia will bring about fundamental changes in the country's labour system. There will be a new labour legislation whose major purpose would be to protect the economic interests and rights of the workers.

121. Racist practices whereby black workers are treated as an expendable commodity useful only for its contribution to output will be done away with. The new labour legislation will include, among other things, provision for a minimum of living wage which each employer will be required to pay his workers.

122. All the remnants of the oppressive contract labour system will be abolished. Restrictions on population movements will be ended. Migrant workers or contract labourers from the so-called homelands will be fully integrated into the areas of the country in which they work and will have freedom to live with their families or dependants. Equality of opportunity and treatment in the work place will be strictly demanded of all employers. To redress the effect of the past racial and

gender discrimination, the government will immediately take measures to eliminate all forms of injustice in recruitment, promotion, wages and training.

123. Namibian workers will enjoy the full democratic right to organize themselves into trade unions and to participate in economic unit management. The right to trade union activities will be extended to all categories of workers, including farm and domestic workers.

124. The labour policy of the new government will call for the introduction of education programmes for workers aimed at developing skills and raising the level of general education of workers. These will include on-the-job training and adult literacy and continuing education to enable the workers to advance through the ranks to managerial, administrative, professional and technical levels of employment. Employers will be required to provide their employees with housing, subsidies, life and health insurance, annual and maternity leave and other necessary fringe benefits. The observance of health and safety standards will be required of every enterprise in the country.

B. Health

125. The population distribution of its 1.5 million inhabitants has an important bearing on the future development of health services in Namibia. More than 66 per cent of its people reside north of the Etosha Pans in the Owambo, Kavango and Caprivi regions. These are the very areas where the greatest need exists and which have been subject to underdevelopment as a result, among other things, of the divisive effects of Proclamation AG8 of 1980.

126. The serious fragmentation of health services due to Proclamation AG8 has resulted in the establishment of no less than six virtually autonomous health service authorities. This has militated against the formulation of meaningful national health policies and strategies because of the vested interests of various ethnic authorities in the retention of the status quo.

127. Despite the fact that Namibia currently has 64 hospitals, more than 180 permanent health centres and over 600 visiting points, there are still areas of concern that have to be considered in the future rationalization and restructuring of health services. These areas may also have a bearing on United Nations technical assistance in the future and are summarized as follows:

(a) Adult literacy - 48 per cent of the women interviewed in a demographic health survey in 1988 had no schooling or had completed only some grades or standards up to standard 3, compared to 46 per cent of the men interviewed. This low level of literacy has a serious impact on health education whose priority target is the group of mothers who must be taught how to care for their children;

(b) Education - there is serious concern about the quality of graduates of the current education system in the country, which reduces the potential pool of persons suitable for training in the various health care professions;

(c) Housing - urbanization is estimated to take place at a rate of 6 per cent per year, while employment opportunities in urban areas are expected to grow only 1.5 per cent. This phenomenon leads to serious overcrowding in many urban areas, although more than 10 per cent of the country's population is already estimated to be living as squatters, mostly in the northern regions around Oshakati, Ondangwa and Rundu. It is obvious that serious stresses are placed on existing services and that demands on future services will be exacerbated;

(d) Migration and resettlement - the repatriation of 41,000 Namibian exiles under the auspices of the Office of the United Nations High Commissioner for Refugees (UNHCR) was an unqualified success, providing a valuable addition to Namibia's manpower resources. It must, however, be noted that more than 85 per cent have resettled in Owambo, increasing the population of that region by 5 per cent to more than 650,000. This places a large additional demand on services that are in many respects already inadequate.

128. The major diseases encountered in Namibia are currently as follows (figures are for the year 1988): malaria: 77,000 cases, of which 7,000 were laboratory confirmed (508 per 100,000 population); tuberculosis: 3,500 new cases (273 per 100,000 population); sexually transmitted diseases: 15,500 cases (1,203 per 100,000 population); measles: 6,500 cases (498 per 100,000 population); diarrhoea, fever and respiratory illnesses: these represent the three main killer diseases of infants and young children in developing countries; the Namibian situation is no different, especially in the northern regions.

129. In view of the extremely high incidence of sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS) merits a special mention as a problem that requires serious attention if decimation of the young, economically active population of the country is to be avoided. By the end of October 1989, a total of 169 AIDS cases, with 28 deaths, had already been reported in Namibia.

Areas of United Nations technical assistance

130. In the field of manpower development, the United Nations can provide short-term assistance to replace doctors deployed by the South African Defence Force (SADF) in northern Namibia and to enable the recruitment and placing of suitable personnel in these areas. Furthermore, an urgent need exists for assistance in financing "bridging" courses for approximately 200 returnee health workers. There is a need for restructuring and strengthening existing training programmes for nurses through appropriate curriculum review and exchange visits for Namibian nurses' training managers and practitioners to countries with experience in integrated public health programmes, such as Kenya and the United Republic of Tanzania.

131. With regard to the provision of equipment and stores, participation in the United Nations Children's Fund (UNICEF) and the international procurement of essential drugs would enable Namibia to alleviate its current dependence on South African suppliers. Furthermore, essential equipment, such as refrigerators, scales for weighing children, etc., is needed to strengthen preventive health care services in the northern regions of Namibia.

132. Strengthening the health transport system should be a major priority. The most serious short-term threat to health services lies in an inadequate fleet of vehicles which are unable to provide essential services ranging from ambulance service to preventive health care support. There may be scope for the United Nations Transition Assistance Group (UNTAG) to offer assistance, by making available vehicles that have now become redundant after the election process.

133. Namibia could further benefit from such services as:

(a) Assistance from WHO through its Global Programme on AIDS in respect of formulating appropriate control and intervention programmes for Namibia;

(b) Assistance from WHO through its Malaria Action Programme, in addressing the serious threat of malaria to the country;

(c) Co-ordination between United Nations agencies involved in the health care sector and community-based health care programmes in northern Namibia;

(d) Assistance to and strengthening of church mission health services in northern Namibia to ensure the continuation of their essential services;

(e) Assistance from the World Food Programme (WFP) in the structuring of appropriate nutritional supplementation programmes for children in areas identified as suffering from undernutrition and malnutrition.

134. The United Nations agencies involved in health care have an ideal opportunity of enhancing reconciliation between the existing services and those envisaged by the future government of Namibia.

C. Shelter

135. Namibia's housing requirements for the urban sector are expected to increase rapidly after independence due to the anticipated increase in the pace of socio-economic development. This has been experienced by other African countries after independence, following the removal of colonial restrictions. This is all the more anticipated in the case of Namibia where the apartheid system had imposed legal and structural constraints on free and equitable socio-economic development. It is envisaged that the level of urbanization, which by current estimates stands at 20 per cent of the population, will reach 40 per cent over the next decade.

136. Despite the fact that they are prerequisites for human health and productivity in all sectors, such basic human needs as shelter, safe water and sanitation are still beyond the reach of large sections of the population in Namibia. The development strategy during the immediate post-independence period in Namibia should call for a deliberate policy to formulate a coherent and comprehensive human settlements strategy in which the interdependence of the rural and urban centres will be emphasized. Such a strategy, together with a detailed plan of action for its implementation, should provide the basis for the efficient physical planning of the entire country. The provisions of infrastructure, services, and housing

finance, the development of the construction sector, along with the means to produce affordable, local building materials, should be among the corner-stones of the future development of Namibia.

137. In view of the foregoing, the United Nations Centre for Human Settlements (Habitat) has elaborated a project proposal to provide assistance in the formulation of a national shelter strategy for Namibia within the framework of the implementation of the Global Strategy for Shelter to the Year 2000. The prominent feature of the project is the special attention placed on the need for human resources capacity building. The aim is to ensure that the Namibians themselves are ultimately able to formulate and implement on their own a coherent and comprehensive human settlements development strategy for their country that would provide for the efficient physical planning of the entire country with respect to both rural and urban housing and the expansion of infrastructure (roads, water, electricity) and social services (education and health services). Although the Centre is essentially an executing rather than a funding agency, it stands ready to provide within its limited means further preparatory assistance funds for the assessment of needs and for project formulation as a means of catalysing the mobilization of funds for the implementation of human settlements projects. Actual implementation of such projects will depend on the co-operation of the multilateral and bilateral organizations in providing the appropriate funding.

D. Education

138. It is recognized that the government of an independent Namibia will initiate measures and reforms to redress existing disparities and inequalities within the educational system and to reorient education to the ideals of democracy and social justice. The following are suggested as basic elements of an initial programme for educational reform.

Restructuring of the educational system

139. The present system of education and training in Namibia would need to be reviewed at independence with a view to developing a national system which will provide equality of educational opportunities to all members of society. Attention should be focused on the need to develop a national capacity for improving the planning, management and administration of education, including improved facilities for research and data gathering. The reform of primary and secondary education, in particular, should take into consideration integration of the present 11 disparate education authorities which are run on ethnic and racial lines. A minimum level of education for all Namibians should be a principal target of a new national policy.

Changing the education content

140. Currently there are disparities in the quality and nature of the curricula offered in the different administrative authorities. The situation suggests the need for a systematic and comprehensive reform of the content of education with a view to ensuring a greater degree of relevance to conditions in the new Namibian society. The change of the curricula should include a comprehensive programme of

pre-service and in-service training of teachers, which will be necessary to produce the new teachers required by an expanding education system following independence, to upgrade the skills of serving teachers and to reorient them on the needs of the new educational environment.

Higher education

141. The authorities of an independent Namibia may wish to consider the establishment of a commission for higher education as a principal element in the reform of this level of education in Namibia. Priority will need to be given to the preparation of university education programmes which are relevant to the cultural and scientific development needs of Namibia after independence.

Educational facilities

142. The new education system would need to establish a national school-buildings authority with responsibility for determining standards of design and construction. One problem which will have to be addressed as soon as possible after independence is the necessity of achieving a balance in meeting the requirements of boarding accommodation for pupils and students and in providing equally essential services such as laboratories and libraries.

Non-formal education, education for girls and women and special programmes

143. The process of extending the democratization of the educational system should take due account of the needs of adults and out-of-school youth, the role women and girls need to play in development and the special characteristics of handicapped persons. A comprehensive programme of out-of-school education, including literacy and rural-skills training schemes, is suggested as a basic element of an initial plan for social and economic reconstruction and development in Namibia.

144. Appropriate co-ordinating mechanisms would need to be put in place with a view to ensuring the formulation of integrated policies, plans and programmes for the reform of the educational system. The government should establish, at the earliest opportunity, a broadly based national commission for the reform of the educational system.

145. UNESCO is ready to respond to any requests from the government for assistance in the preparation and execution of programmes and projects intended to bring about the envisaged reforms as outlined in the paper on education presented to the seminar by UNESCO (see annex I).

E. Labour

146. Promotion of employment and general improvement in labour conditions constitute an issue of critical importance to Namibia in its reconstruction efforts during the transitional period and after independence. A number of problem areas exist in this field which require urgent action. They include the country's high level of unemployment and underemployment; lack of a proper machinery and data base

for employment planning and employment policy formulation; inadequate machinery for labour administration; a poor legal framework for labour relations and the monitoring of labour matters; and limited human resources development.

147. Urgent action is also required to develop and strengthen the machinery for employment planning in the country and to collect a reliable data base for employment planning. Furthermore, specific sectors and economic activities with the potential to absorb large numbers of the unemployed and the underemployed need to be identified. In the urban areas, they could include small-scale enterprises, the informal sector and construction activities. In the rural areas, they could cover smallholder agriculture, emergency employment schemes, labour-intensive infrastructural projects and co-operatives. In addition, access of the black population to productive resources, such as credit, appropriate productive technologies and cultivable land, needs to be improved.

148. There is a need to set up a full-fledged department or Ministry of Labour capable of monitoring labour laws and of promoting employment, occupational safety and health, vocational training and vocational rehabilitation and employment services. Furthermore, the existing labour laws should be revised and a new labour code elaborated which would reflect international labour standards. Technical assistance is also required to strengthen the organizations of workers and of employers. A wages and income policy has to be formulated, with a view to eliminating the current wide disparities in income and ensuring the fixing of a minimum living wage.

F. Human resources development

149. The nature of the Namibian economy and the political economy of its transition are central to manpower development and utilization. The restructuring of the socio-economic setting in Namibia will imply increased manpower demand.

150. Namibia's peculiar manpower problems have their roots in the following factors: (a) apartheid colonialism ignored the education and training of the local populations and, when extended to the black community, was limited to semi-skilled categories; (b) there was excessive dependency on South Africa in manpower, particularly in the mining sector; (c) with some 3,000 Namibian students currently studying in South Africa, independent Namibia may inherit a public service which, by training and by the norms and procedures of operation, will have the trappings of Pretoria; (d) the three tiers of government and the extensive ethnic authorities will make the forging of an integrated local system difficult; (e) there was an abnormally high level of vacancies of skilled manpower (5,800 in 1988) in the public and private sectors and a high wage bill; and (f) a low priority was accorded to black education, especially in science and technical and vocational education.

151. Solutions to some of the problems mentioned above include (a) proper deployment of manpower; (b) efforts to minimize the exodus of skilled personnel; (c) adjustment of job qualifications, taking into consideration the serious manpower shortages; (d) recruitment of expatriates hopefully under technical

assistance schemes; and (e) establishment of crash training programmes to increase local manpower capacity.

152. Past and ongoing studies dealing with both global and sectoral manpower components, especially those undertaken by the Institute of Namibia and under the Nationhood Programme of Namibia, have identified the problem of the possible exodus of skilled personnel and of the shortage of manpower. Two manpower surveys by the colonial authorities in Namibia in 1984 and 1988 also projected a shortage in manpower. But these studies did not take into consideration the Namibians trained overseas and failed to give the breakdown of data required to estimate the level of exodus of white skilled workers and the advancement of disadvantaged groups.

153. A study by the United Nations Institute for Namibia on manpower supply was scheduled to be completed in January 1990, to be followed by a manpower demand analysis to be undertaken when the policies of the Namibian government and the level of the exodus of white workers are known. Such a comprehensive manpower study would be helped by related studies in the areas of wages and incomes policies and the restructuring of the administrative system, including the extent of new institutions, etc.

154. Extensive training has been provided by the United Nations under the Nationhood Programme (United Nations Institute for Namibia, Office of the United Nations Commissioner for Namibia, the United Nations Educational and Training Programme for Southern Africa, Commonwealth Fund for Technical Co-operation (CFTC), etc.); internal training efforts have also been made. These have been supplemented by secondment programmes by the Institute (six- to nine-month placement programmes) and the Nationhood Programme (longer duration) and by the experiences attained by those who were in the colonial public services internally.

155. Training the personnel needed to assist the newly elected government will constitute one of the major challenges to independent Namibia. In the areas of agricultural development and, particularly, of poverty alleviation, the policies, to be effective, should be supported by adequate measures geared towards reducing the acute shortage of qualified personnel.

G. Training in public administration

156. A public administration system always reflects the nature of the society concerned and the interests of those in power. As the day of independence draws nearer for Namibia, the need for an appropriate public administration system becomes more acute. A free and independent Namibia must seek to create systems and institutes which will guarantee its hard-won independence and its freedom from neo-colonialism and apartheid.

157. The public service management system for an independent Namibia must necessarily reflect the aspirations of the free people of Namibia. In developing such a system and its related structures, the government would have to contend with a number of historical factors, which include the underdevelopment of productive forces; an economy that largely consumes that which it does not directly produce

and vice versa; general poverty of the masses, especially in the rural areas; the situation of displaced people and broken families; the status of institutions whose relevance has been overtaken by events; etc. All these factors, if sufficiently considered in advance, will enrich the quality and effectiveness of the new public service management system.

158. Except for the northern areas, Namibia is a very sparsely populated country. This situation calls for careful consideration with regard to the size of the public "administration" machinery. Existing divisions and ethnically oriented administrative systems and structures will certainly have to give way to a more integrated public service management system that would promote to the fullest efficient and effective national economic management. Government should not be too large in relation to the socio-economic structure that is expected to support it. In any event, the following aspects are certainly going to be of special concern to the new Namibia: internal order and security; transport and communication; public finance and financial institution framework; education, health and social infrastructural services; energy and mining; housing and construction; agriculture, science and technology; justice; and, of course, the Defence Portfolio to protect all the above.

159. While everyone is aware that the present administrative structure, which is divisive, duplicative and ethnically centred, should be replaced by a more dynamic management system and structure, it is none the less significant to note that systems and structures are only as good as the people that are expected to manage them. Those people will need to be sufficiently equipped not only with technical and administrative skills, but also with management skills. The international community in general and the Eastern and Southern Africa Management Institute (ESAMI) in particular could play a positive role in an independent Namibia through the appropriate management of development activities. As a regional management development institution, ESAMI designs and offers management problem-solving programmes aimed at improving management performance at both the personal and the organizational levels through management training and consultancy, in a uniquely regional framework.

160. In the last four years, ESAMI has trained over 80 Namibians in different areas of management development. With the kind of public sector management requirements confronting Namibia, the new nation stands to benefit significantly from the "top-level executive" programmes aimed at principal/permanent secretaries and Cabinet Ministers that ESAMI currently organizes for the eastern and southern African regions.

161. Given its wide experience and resource capacity, ESAMI could still design and deliver customer-tailored management development programmes to answer the specific management training/management consultancy needs of the new Namibia. The programme areas could include institutional capacity-building and management (including organizational design and institutional development); productivity improvement and sectoral development programmes (including transportation management and small-scale enterprises). ESAMI's continued partnership with international donors can ensure its capacity to meet the public service management requirements of an independent Namibia.

V. MONETARY AND FISCAL MATTERS

162. Namibia will be acceding to independence with a variety of macro-economic problems. Real per capita income has had a downward trend since the late 1970s. Open and disguised unemployment has intensified and racial inequalities - fostered by past policies - are potentially destabilizing. On the financial side, Namibia will be facing relatively larger budgetary deficits especially in fiscal year 1990/91 (April/March). This is attributable to a structurally high budgetary expenditure, the result of inflated maintenance needs for a large physical infrastructure and of inefficiencies inherent in the Bantustan administrative system and other policies; limited revenue potential; and the tapering off of budgetary support from South Africa.

163. The domestic financial institutions are well run, but their activities are limited in depth and scope; the absence of a well-developed financial market has contributed to the flow of private sector savings to money and capital markets in South Africa. Participation in the Common Monetary Area (CMA) may have conferred on Namibia some benefits commonly associated with sharing in a common currency area, but these may have been attenuated by the adverse effects of factor immobility, distorted macro-economic policies in the Rand Monetary Area (RMA), limited sharing of the seignorage, and uneven progress in financial intermediation. In the external sector, Namibia remains heavily dependent on a few export products and on South Africa; the substantial accumulation of rand-denominated assets poses special challenges for economic management and the non-availability of comprehensive data inhibits much-needed negotiations and the formulation of policy.

164. The above are weaknesses that can be corrected by an independent Namibia. A major preoccupation of economic policy in the period immediately ahead will be the strengthening of growth and employment prospects, the diversification of economic activities and markets, and the creation of more equitable economic opportunities for all population groups. In pursuit of these objectives and to help cope with the deep-seated financial problems in the economy, Namibia would need to develop, with assistance from the international community, a strong capacity for macro-economic management. Where government finances are concerned, there is a need to focus on the overall direction of short- and longer-term fiscal policy; to conduct relevant discussions on revenue sharing under the Southern African Customs Union (SACU) and on the country's external debt, etc.; and to develop mechanisms for mobilizing resources domestically and externally. Equally important is the formulation of policies aimed at promoting efficient use of public sector expenditure. These efforts have to be based, of course, on a sound structure of fiscal administration, including an efficient system of budget preparation and analysis, accounting procedures, expenditure control and monitoring, financial reporting and tax administration. Following independence and the adoption of a unified administrative system, the Minister of Finance should review these issues and develop a profile of manpower and technical assistance needs in the fiscal field. In this regard, the Fiscal Affairs Department of the International Monetary Fund (IMF) if requested, could help by sending a diagnostic mission to Namibia and, in co-operation with other institutions of the United Nations system, could also play a role in providing long-term technical assistance in key areas.

165. It was recognized that the fiscal imbalance would be a major problem starting in fiscal year 1990/91. Ongoing efforts, including a review of possible approaches to the debt problem (with assistance from CFTC) and of taxation and other problems in the mining sector (with assistance from UNCTC, the United Nations Institute for Namibia and other sources) could help towards redressing some of these problems. The demanding preparations for independence, however, have not permitted the leaders of a new government to focus closely on the implications of fiscal problems during the transitional period. A special effort from the international community would therefore help Namibia to address its fiscal problem, starting in fiscal year 1990/91.

166. In the monetary field, the focus should be on creating a system of financial intermediation and regional relationship that is purposefully and pragmatically oriented towards promoting the economic development of Namibia. A central feature of such a system should be the capacity to exercise full discretion and independence in monetary policy matters. To this end, the IMF Central Banking Department is assisting with the establishment of a full-fledged central bank. Logistical and other pertinent issues have been studied, and an appropriately phased programme of action could be launched starting as early as January 1990, pending consideration of the programme and request for assistance by the authorities. Together with this, there is a need for extending into the non-traditional areas the scope of operations of the building societies, the Agricultural Bank, the Development Fund and the First National Development Bank, thereby making them more effective instruments for channelling increased assistance from the international community. The authorities are encouraged to contact competent sources, such as the World Bank, for technical assistance in this regard.

167. With its open economy, so closely intertwined with that of South Africa, Namibia has to pursue cautious external sector policies and accept, in some cases, constraints on the range of short-term policy options with regard to, for example, membership in CMA. With sound management, however, the costs inherent in short-term policy choices can be minimized and adequate preparations, including requisite institution-building and negotiations with South Africa, can be made. This would facilitate eventual decisions regarding membership in CMA, including attendant steps in the areas of exchange control, exchange rate policy and other aspects of monetary independence. Such management can be ensured by a full-fledged central bank and would need to be supported by a strong data base permitting the formulation of carefully thought out policies for the external sector. This is an area where other sections of IMF, including the Bureau of Statistics and the IMF Institute, can play a useful role, both individually and in collaboration with other agencies. The government of an independent Namibia also stands to benefit by calling on specialized institutions, such as the World Bank Group, to provide needed technical assistance in developing financial markets.

168. As emphasized during the Seminar, Namibia will face a critical shortage of qualified technical personnel in the financial fields. It would therefore be necessary to call upon the international community to provide much-needed assistance in connection with strategic advisory positions in financial and monetary matters in the immediate post-independence period.

Notes

1/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 24 (A/35/24), vol. I, annex II.

Annex I

LIST OF CONFERENCE ROOM PAPERS DISTRIBUTED AT THE SEMINAR

A/AC.131/RIO/CRP.1
Some labour problems in Namibia and ILO's proposals for technical co-operation assistance after independence
International Labour Office

A/AC.131/RIO/CRP.2
Paper by the World Tourism Organization

A/AC.131/RIO/CRP.3
Fiscal and monetary issues facing independent Namibia
International Monetary Fund

A/AC.131/RIO/CRP.4
Paper by the International Maritime Organization

A/AC.131/RIO/CRP.5
Technical assistance in the field of aviation
International Civil Aviation Organization

A/AC.131/RIO/CRP.6
Paper by the United Nations Centre for Human Settlements (Habitat)

A/AC.131/RIO/CRP.7
Brief analysis of the needs and related actions for the assistance to Namibia in the field of telecommunications
International Telecommunication Union

A/AC.131/RIO/CRP.8
An assessment of the public administration requirements of an independent Namibia and the assistance that the Eastern and Southern African Management Institute (ESAMI) could provide in the area of management development

A/AC.131/RIO/CRP.9
The present and future role of transnational corporations in Namibia
United Nations Centre on Transnational Corporations

A/AC.131/RIO/CRP.10
Plan for WIPO's technical assistance to an independent Namibia
World Intellectual Property Organization

A/AC.131/RIO/CRP.11
An overview of the water resources sector and technical co-operation needs of Namibia
Department of Technical Co-operation for Development of the United Nations Secretariat

A/AC.131/RIO/CRP.12
Technical and development assistance requirements in the industry sector of an independent Namibia - prospects and suggestions
United Nations Industrial Development Organization

A/AC.131/RIO/CRP.13
Manpower requirements and technical assistance needs for independent Namibia
Mr. Ngila Mwase

A/AC.131/RIO/CRP.14
Paper by the International Fund for Agricultural Development

A/AC.131/RIO/CRP.15
Proposals for strategies for co-operation for development in education in Namibia
United Nations Educational, Scientific and Cultural Organization

A/AC.131/RIO/CRP.16
Paper by the Universal Postal Union

A/AC.131/RIO/CRP.17
Technical assistance to Namibia in the area of trade
United Nations Conference on Trade and Development

A/AC.131/RIO/CRP.18
Brief analysis of the needs for technical co-operation assistance in the areas of agriculture, forestry and fishery
Food and Agriculture Organization of the United Nations

A/AC.131/RIO/CRP.19
Paper by the World Health Organization

Annex II

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UNITED NATIONS

A

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UNITED NATIONS COUNCIL FOR NAMIBIA

REPORTS OF THE DELEGATION OF THE UNITED NATIONS COUNCIL FOR NAMIBIA TO THE MEETINGS OF THE ORGANIZATION OF AFRICAN UNITY

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INTRODUCTION

1. The United Nations Council for Namibia was represented by its President, Lt. Gen. Peter D. Zuze (Zambia), at the fiftieth ordinary session of the Council of Ministers of the Organization of African Unity (OAU) and at the twenty-fifth ordinary session of the Assembly of Heads of State and Government of OAU, held at Addis Ababa, from 17 to 22 July 1989 and from 24 to 26 July 1989, respectively.

I. FIFTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS OF OAU, HELD AT ADDIS ABABA FROM 17 TO 22 JULY 1989

2. The meeting was officially opened on 17 July 1989 by Mr. Berhanu Bayih, Minister for Foreign Affairs of Ethiopia, who delivered a message from the President of Ethiopia. In his message, the President called upon the Council of Ministers to give particular attention to the question of Namibia with a view to recommending action for the strict implementation of Security Council resolution 435 (1978) of 29 September 1978. He also urged the adoption of a common stand for the total elimination of apartheid in South Africa.

3. Speaking on behalf of the liberation movements recognized by OAU, the representative of the African National Congress of South Africa (ANC) contended that the tragic events that had taken place in Namibia on 1 April 1989 were blatant manoeuvres of the racist régime of South Africa to give the impression that the situation in Namibia was unstable. He stressed that the members and supporters of the South West Africa People's Organization (SWAPO) continued to be subjected to a reign of terror and intimidation by members of the notorious Koevoet Unit which had been integrated into the South West Africa Police (SWAPOL). He underscored the need for the United Nations Transition Assistance Group (UNTAG) to be deployed throughout Namibia to ensure that free and fair elections were held in the Territory.

4. The outgoing Chairman of the Council of Ministers, Mr. Mahamane Sani Bako, Minister for Foreign Affairs and Co-operation of Niger, briefed the meeting on the various concrete measures taken to demonstrate the solidarity of OAU with the people of southern Africa. He recalled the tragic events that had taken place in Namibia on 1 April 1989 and emphasized the need for OAU to remain vigilant until final victory was won in Namibia.

5. The session elected as its Chairman Mr. Nathan Shamuyarira, Minister for Foreign Affairs of Zimbabwe.

6. In his report on the activities of the organization, the Secretary-General of OAU reported on action undertaken by the organization in support of the election efforts of SWAPO and announced the opening of an OAU office at Windhoek. He commented on the tragic events of 1 April 1989, which he noted had been the result of the reduction of the size of UNTAG and the manoeuvres of racist South Africa to prevent a SWAPO victory in the elections planned for November 1989 on the basis of Security Council resolution 435 (1978).

7. The report of the Secretary-General of OAU on southern Africa and the report of the fifty-second session of the OAU Co-ordinating Committee for the Liberation of Africa highlighted, inter alia, the implementation of Security Council resolution 435 (1978) and the role of OAU in the independence process in Namibia. Emphasis was placed on the tactics used by the racist régime of South Africa to prevent the people of Namibia from exercising their right to choose freely their representatives in November 1989. To counter such manoeuvres, the Council was advised to adopt a strategy that would consist of sensitization and mobilization of international public opinion, especially during the forthcoming Ninth Conference of Heads of State or Government of Non-Aligned Countries in September 1989 1/ and the forty-fourth session of the United Nations General Assembly. It was agreed that the Security Council should be apprised as soon as possible, through the United Nations Secretary-General, of Africa's concern over the grave situation in Namibia.

8. The Council of Ministers decided to prepare a declaration on Namibia that would underscore its grave concern about developments in Namibia in connection with the implementation of Security Council resolution 435 (1978) and condemn the manoeuvres of South Africa to undermine the campaigning and election efforts of SWAPO (see paras. 13-20).

9. During his stay at Addis Ababa, the President of the United Nations Council for Namibia discussed the question of Namibia with several foreign ministers and heads of delegations, as well as with the President of SWAPO. He briefed the ministers and other officials on the activities of the Council in support of the independence and development of Namibia. In this regard, he mentioned the seminars that the Council had decided to organize on such pertinent and timely issues as the need for contingency planning for technical assistance to Namibia during the transition to independence, the integration of Namibia into the regional structures for economic co-operation, and the role of the United Nations in providing technical assistance for an independent Namibia. In addition, the Presidentt participated actively in the drafting of the above-mentioned declaration on Namibia.

10. At the conclusion of its meetings, the Council of Ministers adopted a resolution on Namibia 2/ by which it, inter alia, welcomed the commencement of the implementation of Security Council resolution 435 (1978); deplored the inadequate deployment of UNTAG in Namibia at the start of the implementation process in April 1989, which had enabled racist South Africa's army of occupation to hunt down and massacre SWAPO combatants based in Namibia; called upon the United Nations Secretary-General to take all measures, including increasing the military component of UNTAG to 7,500 as provided for in Security Council resolution 435 (1978), so as to ensure racist South Africa's compliance with the resolution and create conditions for free and fair elections in Namibia; demanded the immediate demobilization of all Koevoet elements from the police force and the dismantling of their command structure in accordance with the provisions of Security Council resolution 435 (1978); decided to follow closely developments in Namibia and, in the event of continued violations by racist South Africa of the provisions of Security Council resolution 435 (1978), to convene an emergency session to consider appropriate action; called upon the United Nations Secretary-General to urgently ensure the overdue release of all Namibian political prisoners held by South Africa and the repeal of all oppressive and discriminatory laws and regulations as provided for in Security Council resolution 435 (1978); reaffirmed the inalienable

right of the people of Namibia to national independence and sovereignty in a non-fragmented and united Namibia, including Walvis Bay and the Penguin and other off-shore islands in accordance with Security Council resolution 435 (1978); strongly recommended that the United Nations discharge its full responsibility in ensuring its supervision and control of the elections, and that the Special Representative of the Secretary-General proceed with the step-by-step implementation process only after he had satisfied himself that it would lead to free and fair elections as stipulated in the United Nations plan for the independence of Namibia; called upon the United Nations to exercise its full responsibility in implementing resolution 435 (1978) without any deviations and not to allow South Africa to manipulate the interpretation of this resolution to its own advantage; called upon the international community and all democratic forces to monitor closely Namibia's independence process and to extend all necessary assistance to the people of Namibia to realize genuine independence.

II. TWENTY-FIFTH ORDINARY SESSION OF THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT OF OAU, HELD AT ADDIS ABABA FROM 24 TO 26 JULY 1989

11. The twenty-fifth ordinary session of the Assembly of Heads of State and Government of OAU was officially opened by the President of Ethiopia. Mr. Mohamed Hosni Mubarak, President of Egypt, was elected Chairman of the session.

12. The Assembly of Heads of State and Government paid special attention to the situation in and relating to Namibia. In their statements on the question of Namibia, many heads of State and Government expressed grave concern at the manoeuvres of racist South Africa, which threatened the conduct of free and fair elections in Namibia on the basis of the United Nations settlement plan endorsed by the Security Council in its resolution 435 (1978).

13. On 26 July 1989, the Assembly, having reviewed the developments in Namibia since the start of the implementation of Security Council resolution 435 (1978), adopted, at the recommendation of the Council of Ministers of OAU, a declaration on Namibia that reflected its grave concern about the current situation in and relating to the Territory.

14. In the Declaration, the Assembly recalled the events preceding the commencement of the implementation process, including the insistence by the permanent members of the Security Council to reduce the size of the military component of UNTAG from the original level, and noted with regret that the reduction contributed in large measure to the failure of the United Nations to prevent the events prior to and immediately after 1 April 1989, which had resulted in the needless loss of life of Namibians. In this regard, it stated that the present size of UNTAG was far from sufficient to guarantee even the minimum conditions for free and fair elections in Namibia.

15. The Assembly was particularly disturbed that Pretoria had been permitted to continue its non-compliance with the legally binding provisions of Security Council resolution 435 (1978), which, among other things, provided for the disbandment of all ethnic and paramilitary forces and the destruction of their command

structures. As a result, the apartheid régime had openly defied the United Nations by resisting the dissolution of its Koevoet murder squads, which had been integrated into SWAPOL and which continued to terrorize Namibians and to intimidate SWAPO supporters in order to impede them from registering as voters. The Assembly stressed that Pretoria's continued policy of intimidation and terrorization had also delayed the repatriation of Namibian refugees.

16. The Assembly further recalled that, according to Security Council resolution 435 (1978), the responsibility to ascertain the "suitability" of the personnel to serve in SWAPOL rested with the Special Representative of the Secretary-General. In this regard, it urged the Special Representative of the Secretary-General to demand that Koevoet be disbanded immediately and that those elements already integrated into SWAPOL, including their former Commander General, be removed therefrom forthwith.

17. It noted with concern that in order to justify the integration into SWAPOL and the deployment of Koevoet, the Pretoria régime had continued its spurious allegations of infiltration of SWAPO combatants. In view of the prevailing situation, the Assembly rejected the argument by the Administrator-General that the Koevoet-infested SWAPOL would be suitable for providing protection to the leadership of SWAPO.

18. The Assembly observed that South Africa had so far refused to release Namibian political prisoners held in its jails, as provided for in Security Council resolution 435 (1978). It expressed indignation at Pretoria's continued defiance of the Security Council and called upon the Council to force the Pretoria régime to abide by the provisions of resolution 435 (1978). It further expressd profound concern at the anti-SWAPO bias of the South African-controlled media in Namibia which had made a mockery of the impartiality issue.

19. Furthermore, the Assembly noted with concern that the current plans for the conduct of voting appeared to contain loopholes that could permit cheating, such as centralized counting of votes, which necessitated movement of ballot boxes from polling stations, registration of non-Namibians and absence of voters' registers of polling stations. In this connection, it urged the Secretary-General to inform the international community how his Special Representative intended to "supervise and control" the electoral process in Namibia in order to ensure that it was free and fair, as provided for in Security Council resolution 435 (1978).

20. In conclusion, the Assembly of Heads of State and Government renewed its willingness to continue close co-operation with the United Nations Secretary-General throughout the process of the implementation of Security Council resolution 435 (1978), with the aim of achieving free and fair elections leading to the genuine independence of Namibia.

Notes

1/ See A/44/551.

2/ A/44/603, annex I, CM/Res. 1206 (L).

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UNITED NATIONS COUNCIL FOR NAMIBIA

REPORT OF THE DELEGATION OF THE UNITED NATIONS COUNCIL FOR NAMIBIA ON THE MISSION OF CONSULTATION TO THE WORLD HEALTH ORGANIZATION, THE INTERNATIONAL LABOUR ORGANISATION, THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES AND THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, AT GENEVA FROM 10 TO 15 AUGUST 1989

Background

1. A delegation of the United Nations Council for Namibia conducted a mission to Geneva, from 10 to 15 August 1989, to consult with senior officials of the World Health Organization (WHO), the International Labour Organisation (ILO), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Conference on Trade and Development (UNCTAD). The purpose of the consultations was to consider ways and means of mobilizing and intensifying international technical assistance for an independent Namibia, to assess the roles played by those organizations with regard to the question of Namibia, and to identify areas of assistance for Namibia during the transition period and following its independence.

2. The delegation was composed of Mr. Mustafa Akşin (Turkey) and Mr. Yogesh K. Gupta (India), assisted by a staff member of the Office of the United Nations Commissioner for Namibia.

3. In the meetings with the four organizations, the delegation provided a briefing on the current status of implementation of Security Council resolution 435 (1978) of 29 September 1978 and expressed the hope that, despite certain obstacles still to be overcome, the progress towards Namibia's independence was now irreversible and that the stage had been set for free and fair elections to be held under United Nations supervision in early November 1989. The delegation further emphasized that the United Nations Council for Namibia continued to be the legal Administering Authority for the Territory until independence. Attention was drawn, however, to the fact that the programme of work of the Council for 1989 had been revised as a result of recent positive political developments. In that connection, the delegation briefed the organizations on the three seminars organized by the Council on the mobilization of development and technical assistance.

4. Against this background, the delegation requested information from each organization about programmes it envisaged for an independent Namibia, bearing in mind that it would be for the new Government to decide on a comprehensive development policy for the newly independent country. The information provided by each of the four organizations is presented below.

World Health Organization

5. WHO had established a special team for Namibia within its Division of Emergency Relief Operations, and a WHO liaison office had been set up in Windhoek with the intention of developing it into a full-fledged WHO field office after independence. WHO personnel had been operating in Namibia for some months and essential data were being collected. On the basis of those data, first priority would be given to drawing up proposals for an integrated national health plan for an independent Namibia. Secondly, provision should be made for training and reorientation of medical personnel and for the upgrading of medical facilities, particularly in rural areas. Thirdly, there was a need to identify clearly the current most serious health problems in the country.

6. A provisional budget for WHO assistance amounting to $US 26 million had been drawn up for the first 18-24 months after independence. The budget provided for 30 international volunteers, renovation and rehabilitation of health facilities, training and equipment. Mr. Warren Furth, the Acting Deputy Director-General of WHO, assured the delegation that, if need be, his organization would be in a position to help recruit health personnel for Namibia on a large scale.

Office of the United Nations High Commissioner for Refugees

7. The delegation was briefed by Mr. Arthur Dewey, the Deputy High Commissioner for Refugees, on the progress of the repatriation of Namibian refugees. As of mid-August, a total of 36,000 refugees had returned and the airlift from Angola and Zambia had been completed. It was estimated that about 6,000 refugees, including some 800 children, still remained to be repatriated. The UNHCR officials expected that most of the remaining refugees would return to Namibia before 15 September 1989, the deadline for registration for the elections.

8. In general, the repatriation process had gone smoothly, although at one point the airlift had had to be suspended owing to overcrowding in the reception centres. However, those problems had subsequently been overcome.

9. The delegation was informed that UNHCR, in co-operation with the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Food and Agriculture Organization of the United Nations (FAO) and WHO, was in the process of establishing a rehabilitation programme for the returnees. The programme would include food, water, health, shelter and various income-generating activities, particularly in rural areas. The UNHCR representatives pointed out, however, that although the High Commissioner was currently responsible for the co-ordination of these activities, UNHCR was not a development agency and that therefore another

organ of the United Nations system, such as the United Nations Development Programme (UNDP), should assume the co-ordinating functions as soon as possible.

United Nations Conference on Trade and Development

10. Mr. Alex Ashiabor, the Officer-in-Charge of the UNCTAD secretariat, provided the delegation with detailed information about areas in which the organization would be in a position to assist an independent Namibia. In the first instance, assistance could be provided through a survey of social and economic conditions in Namibia, which might form the framework for defining development perspectives and needs. In addition, UNCTAD would be able to provide training for Namibians through internships, particularly in the field of shipping. Furthermore, specific technical assistance projects could be envisaged.

11. With regard to individual technical assistance projects, many suggestions were made with regard to commodities, the mineral sector, debt management, shipping, customs and trade. It was noted, however, that the specific need for technical assistance in these fields must be determined within the context of an overall framework and on the basis of requests from the new Government.

International Labour Organisation

12. ILO was planning to dispatch a mission to Namibia to collect relevant data and to assess development needs. An ILO headquarters task force had been established, and a number of possible areas of assistance had been identified, e.g., income-generating activities in resettlement areas, reform of the current labour system, establishment of a ministry of labour and training for Namibian workers. Mr. F. M. Abdel-Rahman, the Assistant Director-General for Africa, indicated that ILO was prepared to start programmes at short notice and that a complete report, including proposed priorities, would be prepared soon after the return of the planned mission.

13. It was also noted that ILO was responsible for the whole question of human resources development. In that regard, a number of studies and other activities had already been undertaken on such themes as rural development options for Namibia, labour and unemployment in Namibia, income and wages in Namibia and agricultural production and rural participation in Namibia. ILO was at present co-operating with the United Nations Institute for Namibia in the preparation of a preliminary manpower survey for Namibia. It was expected that that activity would be expanded further after independence.

Conclusion

14. The delegation was most impressed by the extent to which the four organizations visited had already moved towards preparing effectively to assist Namibia during the transitional and post-independence periods. There is little doubt that the new Government in Namibia can count on excellent co-operation from those United Nations organizations.

15. With regard to the financing of technical assistance activities, some organizations indicated that they would seek the necessary resources through established channels, notably UNDP. In other cases, separate fund-raising efforts might be necessary. However, regardless of the sources of financing, all organizations agreed that there was an urgent need for effective co-ordination of technical assistance provided by the United Nations system to Namibia.

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UNITED NATIONS COUNCIL FOR NAMIBIA

IMPLEMENTATION OF DECREE NO. 1 FOR THE PROTECTION OF THE NATURAL RESOURCES OF NAMIBIA

Institution of legal proceedings in the domestic courts of States

Report of the United Nations Commissioner for Namibia

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INTRODUCTION

1. In the report of the United Nations Commissioner for Namibia (A/AC.131/194), issued on 23 October 1985, the Commissioner informed the United Nations Council for Namibia of the conclusions reached by the practising lawyers who had been engaged as consultants in Belgium, France, the Federal Republic of Germany, Japan, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America. In the introduction to that report, the Commissioner described the events leading up to the enactment by the Council, on 27 September 1974, of Decree No. 1 for the Protection of the Natural Resources of Namibia 1/ and the efforts made to implement the Decree in the following years until the General Assembly, by its resolution 36/121 C of 10 December 1981, decided that the Council should "take all measures to ensure compliance with the provisions of Decree No. 1 for the Protection of the Natural Resources of Namibia, including consideration of the institution of legal proceedings in the domestic courts of States and other appropriate bodies".

2. In the concluding section of the above report, the Commissioner made, inter alia, the following observations:

> "(a) The Commissioner notes that the Council stated in its report to the thirty-fifth session of the General Assembly 2/ that the Decree was both the domestic law of Namibia and an instrument carrying international consequences for States Members of the United Nations;
>
> "(b) The Commissioner notes that if legal action is undertaken, it will have the effect of furthering the purpose of the Decree; equally, if legal action is not undertaken, it will be difficult to maintain the Decree in its present status, and it will be necessary to redefine it, possibly as a text to be incorporated in legislation at the national level;
>
> "...
>
> "(d) After a thorough study of the reports of lawyers from seven countries, the Commissioner considers that the proposed legal action might lead to positive results if undertaken in one or more of the following three countries: Belgium, the Netherlands and the United States of America."

3. The Steering Committee considered the matter at its 199th and 201st meetings, on 9 April and 2 May 1985, and decided:

(a) To institute legal proceedings in the domestic courts of States, against corporations and against individuals who were violating the Decree;

(b) That those legal proceedings would commence in the Netherlands;

(c) To request the United Nations Commissioner for Namibia to make appropriate arrangements to set in motion the institution of legal proceedings in the Netherlands.

4. The Council considered the question at its extraordinary plenary meetings, held at Vienna from 3 to 7 June 1985. At its 443rd meeting, on 7 June 1985, the Council adopted the Vienna Final Document. 3/ Paragraph 56 of the Programme of Action reads as follows:

> "56. The Council decides to promote actively the implementation of the Decree through legal action in the domestic courts of States and through political action and consultations intended to put an end to the plunder of all Namibia's natural resources; it requests the United Nations Commissioner for Namibia to take necessary steps towards that end after consultations with the President of the Council." 3/

5. The Commissioner informed the Council of progress on legal proceedings up to 31 December 1986 in his report (A/AC.131/267).

I. CONDUCT OF LEGAL PROCEEDINGS

A. Engagement of lawyers

6. Upon his return from The Hague in June 1985 and after further consultations with the Acting President of the Council and with the Legal Counsel of the United Nations, the Commissioner retained the services of the lawyers in the Netherlands to institute appropriate legal proceedings.

7. The General Assembly, by its resolution 40/97 A of 13 December 1985, endorsed the decision of the Council to initiate legal proceedings to give effect to Decree No. 1.

8. Furthermore, the General Assembly, by its resolution 41/39 A of 20 November 1986, approved "the continued efforts of the United Nations Council for Namibia to initiate legal proceedings in the domestic courts of States against corporations or individuals involved in the exploitation, transport, processing or purchase of Namibia's natural resources, as part of its efforts to give effect to Decree No. 1 for the Protection of the Natural Resources of Namibia".

9. During 1987, the lawyers continued their studies and made preparations for legal action in the domestic courts of the Netherlands. They were assisted and supported in their work by the Commissioner and his staff. On a number of occasions, consultations took place involvling the President of the Council and the lawyers.

B. Service of the writ of summons

10. In December 1986, the President of the Council for Namibia sent a communication to the Minister for Foreign Affairs of the Netherlands in which he referred to the decision of the Council of 2 May 1985 to institute legal proceedings in the domestic courts of States to halt operations which seemed to violate the Council's Decree No. 1. He also sent him a copy of the draft writ of summons prepared by the Netherlands Counsel and advised him to provide a copy thereof to the Netherlands uranium enrichment plant Urenco Nederland V.O.F.

11. On 14 July 1987, the Council for Namibia instructed its Netherlands Counsel to institute legal proceedings before the District Court of The Hague against Urenco Nederland V.O.F. and its State-controlled managing partner, Ultra centrifuge Nederland N.V. (UCN), as well as the Government of the Netherlands.

12. The writ stated, inter alia, the following:

"4. WHEREAS the manner in which Namibian uranium is exploited, without the consent or permission of plaintiff, and the processing and purification which uranium has to undergo before it can be used in a nuclear reactor, can to the extent relevant in these proceedings be summarized as follows:

"a. in and near the Rössing mine in Namibia - the world's largest producing uranium mine - uranium ore is mined and from that ore a uranium-concentrate is produced, which is purchased by or on behalf of uranium users;

"b. on the basis of such purchase, orders are placed by or on behalf of the user with a conversion plant, to which the uranium-concentrate is supplied, with an enrichment plant and with a fuel element fabrication plant, and pursuant to these orders

"(1) the conversion plant - where the uranium from this concentrate is converted into uranium-hexafluoride - supplies, in exchange for the concentrate supplied to it and against payment of a conversion fee, uranium-hexafluoride on behalf of the user to the enrichment plant;

"(2) the enrichment plant - where this uranium-hexafluoride is enriched as to uranium-235 - supplies, in exchange for the hexafluoride supplied to it and against payment of an enrichment fee, enriched uranium-hexafluoride on behalf of the user to the fuel element fabrication plant;

"(3) the fuel element fabrication plant - where this enriched uranium-hexafluoride is converted into enriched uranium-dioxyde and this dioxyde is processed into fuel elements - supplies, in exchange for the enriched hexafluoride supplied to it and against payment of a fabrication fee, fuel elements to the user;

"c. these fuel elements are installed in a reactor of the user and are used for the production of electricity;

"5. WHEREAS by carrying out orders which as described sub 4.b are placed on the basis of purchases of Namibian uranium-concentrate, the conversion, enrichment and fuel element fabrication plants are making indispensable contributions towards the exploitation of Namibian uranium, are profiting thereby and are furthering said exploitation;

"6. WHEREAS defendant sub 1 - hereinafter also referred to as "Urenco Nederland" -, which is engaged in the business of enriching uranium, is carrying out, inter alia, orders which as described sub 4.b (2) are placed on the basis of purchases of Namibian uranium-concentrate;

"7. WHEREAS defendant sub 3 - hereinafter also referred to as "the State" - has argued that, although it is to be assumed that at least part of the uranium-hexafluoride supplied to Urenco Nederland is of Namibian origin, defendants are not to blame therefor because Urenco Nederland cannot ascertain when and to what extent this is the case;

"8. WHEREAS this argument cannot disculpate defendants

"a. not only because Urenco Nederland can demand the assurance that no Namibian uranium-concentrate has been used in the production of the uranium-hexafluoride supplied to it,

"b. but also and particularly because by carrying out an order which as described sub 4.b (2) is placed on the basis of a purchase of Namibian uranium-concentrate, the enrichment plant is making an indispensable contribution towards the exploitation of Namibian uranium, is profiting thereby and is furthering said exploitation regardless when and to what extent Namibian uranium-concentrate has been used in the production of the uranium-hexafluoride supplied to that plant;

"9. WHEREAS Urenco Nederland, as well as Urenco (UK) and Urenco Deutschland oGH which are also engaged in the business of enriching uranium, and their respective managing partners, viz. defendant sub 2 - hereinafter also referred to as "UCN" -, British Nuclear Fuels PLC and Uranit GmbH, belong to the Urenco Group, which was formed after the conclusion of the Treaty of Almelo (Treaty Gazette 1970, 41) between the Federal Republic of Germany, the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland;

"10. WHEREAS UCN

"a. is participating, just as British Nuclear Fuels and Uranit GmbH, for one-third in Urenco Limited, which company acts as the marketing organization of the Urenco Group, concludes enrichment contracts on behalf of this group and co-ordinates the distribution of orders

placed thereunder among Urenco Nederland, Urenco (UK) and Urenco Deutschland oGH,

"b. is represented on the board of directors of Urenco Limited,

and as managing partner is causing Urenco Nederland to act as described sub 6;

"11. WHEREAS the State

"a. is represented on the Joint Committee established by the Treaty of Almelo,

"b. holds the majority of the shares in UCN,

and, through the rights it has pursuant to the Treaty of Almelo, as well as through the powers attached to its shareholding referred to sub b, the special rights granted to it in the articles of association of UCN and the powers of UCN with respect to Urenco Nederland, and through the powers it has otherwise, is able to decisively influence Urenco Nederland and UCN in order to prevent Urenco Nederland from acting as described sub 6 and UCN from causing Urenco Nederland to do so."

"...

"THEREFORE

may it please the Court, to the extent possible by provisionally enforceable judgement,

"I to prohibit defendant sub 1 - Urenco Nederland - and defendant sub 2 - UCN - from carrying out, respectively from causing defendant sub 1 to carry out, any order of enriched uranium which as described in the writ of summons sub 4.b (2) is placed wholly or partly on the basis of a purchase of Namibian uranium-concentrate,

"II to instruct defendant sub 1 - Urenco Nederland - to submit to defendant sub 3 - the State - in furtherance of the supervision of the compliance with the injunction referred to sub I, before carrying out any order of enriched uranium, a written statement from the party by or on whose behalf the order is placed, confirming that the order is not placed as described in the writ of summons sub 4.b (2) wholly or partly on the basis of a purchase of Namibian uranium-concentrate;

with the provision that, in case defendant sub 1 carries out an order in violation of the injunction referred to sub I or sub II, defendants sub 1 and 2 shall be jointly and severally liable for the payment of a penalty to plaintiff in the amount of Dfls. 2.500,-- (two thousand five hundred Dutch guilders) for every kilogram separative work required to carry out that order".

13. By instituting legal proceedings in the Netherlands, the Council sought to prevent Urenco Nederland V.O.F. from carrying out orders on the basis of purchases of Namibian uranium.

14. The above action was only a first step by the Council in implementing its decision of May 1985 to institute legal proceedings as one of the various options to safeguard the natural resources of Namibia.

15. Urenco Nederland V.O.F. and UCN submitted a statement of defence on 3 May 1988. The statement contended that "the Court cannot receive the claims of the plaintiff or, at least, shall have to discuss these claims. Without any need to do so, UCN and Urenco further observe that the claimed provisional enforceability is not based on the law; equally without any need to do so, it is observed that the penalty claimed is out of proportion and therefore cannot be awarded".

16. The statement affirmed, inter alia, that UCN and Urenco "have never entered into any transaction with the government of South Africa and/or with any person or legal entity resident in South Africa or in Namibia".

17. It also stated, inter alia, the following:

> "The various stages of processing uranium ore
>
> Uranium ore (whatever its origin), after it has been mined, is processed into uranium oxide, also referred to as 'yellow cake'. The electricity plants supply this yellow cake to conversion plants in the United Kingdom, France, Canada and the United States. These conversion plants then convert the yellow cake into UF6 and supply this product back to the electricity plants. Then the electricity plants suppply the UF6 (which, as explained in paragraph 2.7 of this statement, then has as its origin the country of residence of the conversion plants) to enrichment plants including Urenco. After the enrichment of the UF6 this enriched product is supplied back to the electricity plants. Then the electricity plants arrange for the conversion, by fuel element fabrication plants, of this enriched substance into the form of tablets, which are inserted into fissile material rods. These fissile material rods form the 'fuel' of the electricity plants for the generation of electricity.
>
> "Based on the foregoing alone there is no question of carrying out and/or causing to be carried out 'orders placed on the basis of purchases of Namibian uranium concentrate' as referred to in, inter alia, paragraph 6 of the writ of summons. In addition it is to be observed that the statements contained in paragraph 4b of the writ of summons are not in accordance with the real course of events as described in paragraph 2.8 of this statement."

18. On the question of the competence of the United Nations Council for Namibia, the statement said:

> "The Council cannot be considered to be the government of a state because the state of Namibia has never existed. The fact that there is no question of a

sovereign state 'Namibia' is also acknowledged by the Council itself in the writ of summons where the right to self-determination is invoked. Nor does Namibia meet the cumulative requirements which are essential for the existence of a state, viz. the people of a state, the territory of a state and the power of a state. Clearly, any form of an effective exercise of power by an independent government within Namibia is lacking. Also, so far the Council has not - contrary to what resolution 2248 (S-V) envisages - exercised any effective authority within Namibia. The doubt as to such an exercise of power also is the very reason why The Netherlands was led to abstain from voting on said resolution."

19. In relation to the contents, nature and scope of Decree No. 1, the statement reads, inter alia:

"UCN and Urenco deny that the business activities engaged in and envisaged by them are covered in any manner by the prohibitions contained in Decree No. 1, because UCN and Urenco do not perform or envisage performing any acts of whatsoever nature with respect to the natural resources which are present within the territory of Namibia, including the removal and transportation of such natural resources from the territory of Namibia."

20. On "alleged unlawful conduct by UCN and Urenco", the statement of defence contends, inter alia, that "it is an indisputable fact that the defendants in the present proceedings are not involved in any manner in either the exercise of power over, or the exploitation of natural resources of Namibia. Equally undisputed is that neither Urenco nor UCN can contribute in any manner to the right to self-determination - including the right to dispose freely of the natural resources - of the people of Namibia, because they cannot influence the decision-making and implementation in that respect and, moreover, entertain no relation whatsoever with South Africa or, as the case may be, the territory of Namibia".

21. On 6 June 1989, in reply to the statements of defence, a statement of the United Nations Council for Namibia was submitted to the District Court at The Hague. It stated, inter alia, the following:

"WHEREAS defendants do not contest that South Africa is unlawfully exercising power over and in Namibia and, owing to and in furtherance of that power, is exploiting Namibian uranium, and causing it to be exploited;

"WHEREAS it is, therefore, to be assumed that defendants at least recognise that the production of Namibian uranium without permission of plaintiff is unlawful, because it violates the right to self-determination of the people of Namibia and its permanent sovereignty over the natural resources of Namibia;

"WHEREAS concerning the question whether the trade in Namibian uranium so produced is unlawful, the State has declared

"a. that the importation of Namibian uranium for use in The Netherlands is 'undesirable' (see Records of the Second Chamber 1978-1979, Annex 777);

"b. that supply contracts concerning uranium from Namibia with state-owned companies in The Netherlands 'probably' would violate Resolution No. 283 of July 29, 1970, of the Security Council (see Records of the Second Chamber 1978-1979, Annex 777, as well as Annex 1617 according to which the word 'probably' was explained by uncertainty concerning the question - which according to plaintiff is irrelevant but has to be answered in the affirmative - whether Euratom is bound by said resolution);

"c. that the permission of plaintiff is required for Dutch purchases of Namibian uranium

all of which means that the State answers this question in the affirmative as well."

22. The statement went on to argue that:

"plaintiff fails to understand why enriching Namibian uranium would be less reprehensible than preceding exploitation operations such as producing, trading and converting;

"WHEREAS in fact

"a. the thief is usually not blamed more for his crime than the receiver of stolen property for his, and rather the contrary is being argued;

"b. the enricher of Namibian uranium makes an indispensable contribution to and profits from those preceding exploitation operations;

"c. this enricher is also furthering these preceding exploitation operations, not only by actively soliciting 'enrichment orders' based on purchases of Namibian uranium, as Urenco Nederland does, but already by his willingness to accept and carry out such orders;

"d. the people of Namibia do not profit by the production of and trade with Namibian uranium, but rather South Africa, besides the companies participating in the Rössing mine, as appears, inter alia, from the extensive Thirion Report which plaintiff holds at the disposal of the Court ...;

"e. also as a result thereof South Africa is capable of financing the very expensive exercise of its power over and in Namibia;

"WHEREAS, if enrichment plants refuse to enrich Namibian uranium, the preceding exploitation operations would cease and plaintiff cannot imagine that defendants, and in any case the State, would wish to excuse the enrichment of Namibian uranium in The Netherlands with the argument that, if Urenco Nederland would not do so, it would be done by enrichment plants in countries which give less support to the endeavours of the people of Namibia and plaintiff than the State declares to be doing."

23. On Decree No. 1, the statement affirmed, inter alia:

"that this decree is more than just a regulation of a foreign government, as the State wishes to argue, because

"(1) it not only has its basis in the Charter, the Declaration on the Granting of Independence to Colonial Countries and Peoples (GA Resolution No. 1514 (XV)), the Declaration on Principles of International Law and Co-operation among States in accordance with the Charter of the United Nations (GA Resolution No. 2625 (XXV)), the Declaration on Permanent Sovereignty over Natural Resources (GA Resolution No. 1803 (XVII)) as well as international treaty and customary law,

"(2) but also has been promulgated on behalf of the international community, i.e. by an organ established by the United Nations for a territory for which the United Nations have accepted direct responsibility;

"that the national courts have frequently ruled that according to their national law, and also taking into account international law, even national regulations of another state than that of the courts have to be respected, even though such regulations do not form part of the lex causae, this also in cases in which the government concerned could not de facto exercise power over the territory of its state at the time the regulation was promulgated;

"that a relevant example hereof for the present case is a decision of the Bundesgerichtshof of 1972 (June 22, 1972, BGHZ 59, 82) declaring null and void as violating the international public order an insurance contract concerning Nigerian cultural assets which had been exported from Nigeria in violation of Nigerian law;

"that what holds for cultural assets applies a fortiori to natural resources and plaintiff's Decree No. 1 protects such fundamental interests of the people of Namibia that defendants are obliged to respect it."

24. In conclusion, it stated:

"WHEREAS, moreover, according to Article 103 of the Charter, in case a conflict between obligations of the State under the Charter is involved here and a provision of any other treaty to which the State is a party cannot be avoided by interpretation, those obligations shall prevail;

"finally

"WHEREAS the penalty claimed by plaintiff in case of infringement of the injunction bears an entirely reasonable proportion to the rights and interests of the people of Namibia at stake;

"WHEREAS, to the extent hereinbefore certain parts of or observations in the statements of defence have not been dealt with - for instance concerning abstentions from voting on resolutions which have been adopted, the

(ir)relevance of which has not been elaborated by defendants themselves - the reason hereof is that in plaintiff's opinion they do not need to be discussed, in which regard, however, plaintiff reserves the right to do so still in case the further development of these proceedings should give occasion thereto;

"WHEREAS plaintiff maintains all its allegations - including the allegation in paragraph 4 sub a of the writ of summons that the Rössing mine is the largest producing uranium mine in the world, which according to a recent publication in the trade journal NUEXCO is still the case in terms of 'earth movement' - and offers to supply proof thereof with all legal means, with the notable inclusion of witnesses."

C. Position of the Government of the Netherlands

25. Consequent upon the institution of legal proceedings before the district court of The Hague, the Chargé d'affaires of the Permanent Mission of the Netherlands sent a letter to the United Nations on 23 July 1987 addressed to the Secretary-General, 4/ in which he stated, inter alia, that in view of the fact that "the Council has summoned in a court of law not only two industrial companies in the Netherlands, but also the State of the Netherlands itself, a Member State of the United Nations, the Netherlands Government considers it appropriate to clarify its position in this matter".

26. The letter went on to say that "Netherlands electricity companies do not buy Namibian uranium. Urenco Nederland V.O.F. and UCN operate within a German, British and Netherlands consortium, Urenco Ltd., established in 1971, that concludes enrichment contracts on behalf of the three partners in the consortium with electricity suppliers. By these contracts the consortium binds itself to enrich, on behalf of the electricity suppliers, uranium-hexaflouride (UF6), a product that is derived by conversion successively from uranium ore into U308 (yellow cake) and from U308 into UF6. These processes do not take place in the Netherlands. A number of industrial companies in various countries are participating in subsequent processes that finally result in nuclear fuel for electricity generation. The Netherlands does not consider these activities to be in conflict with Decree No. 1".

27. The letter further stated that in "its writ of summons, the Council claims, inter alia, that the Netherlands, by allowing Urenco Nederland to conduct these activities, is acting unlawfully vis-à-vis the people of Namibia, viz. infringing and contributing towards the infringement of the right to self-determination of the people of Namibia and the rights of that people with respect to the ownership and exploitation of the natural resources of Namibia. By levelling such an unwarranted accusation against the Netherlands, the Council seems to question the sincerity of the Netherlands Government on this vital issue, despite the latter's long-standing commitment to the well-being and legitimate aspirations of the Namibian people. The Netherlands has always firmly supported the Namibian cause, in particular Security Council resolution 435 (1978), being the only viable framework for the independence of Namibia. It will continue to do so, although the present proceedings in themselves might justify a reconsideration of position with regard to the Council for Namibia".

II. ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FORTY-THIRD SESSION

28. On 17 November 1988, the General Assembly adopted resolution 43/26 on the question of Namibia whereby it reaffirmed that the natural resources of Namibia, including its marine resources, were the inviolable heritage of the Namibian people and expressed its deep concern at the depletion of those resources, particularly its uranium deposits, as a result of their plunder by South Africa and certain Western and other foreign economic interests, in violation of the pertinent resolutions of the General Assembly and of the Security Council, of Decree No. 1 for the Protection of the Natural Resources of Namibia and in disregard of the advisory opinion of the International Court of Justice of 21 June 1971. 5/

29. The resolution declared that all activities of foreign economic interests in Namibia were illegal under international law and that all the foreign economic interests operating in Namibia were liable to pay damages to the future legitimate Government of an independent Namibia.

30. The resolution once again requested all Member States, particularly those States whose corporations were engaged in the exploitation of Namibian resources, to take all appropriate measures, including legislative and enforcement action, to ensure the full application of, and compliance by all corporations and individuals within their jurisdiction with, the provisions of Decree No. 1 for the Protection of the Natural Resources of Namibia.

31. The resolution reiterated the General Assembly's approval of the initiation by the United Nations Council for Namibia of legal proceedings in the domestic courts of States against corporations or individuals involved in the exploitation, transport, processing or purchase of Namibia's natural resources, as part of its efforts to give effect to Decree No. 1.

32. The resolution requested the Governments of the Federal Republic of Germany, the Netherlands and the United Kingdom of Great Britain and Northern Ireland, which operate the Urenco uranium-enrichment plant, to have Namibian uranium specifically excluded from the Treaty of Almelo, 6/ which regulates the activities of Urenco.

Notes

1/ For the text of the Decree, adopted by the Council at its 209th meeting, on 27 September 1974, and approved by the General Assembly at its 2318th meeting, on 13 December 1974 (resolution 3295 (XXIX)), see Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 24 (A/35/24), vol. I, annex II.

2/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 24 (A/35/24), vol. III.

3/ Ibid., Fortieth Session, Supplement No. 24 (A/40/24), para. 513.

4/ A/42/414.

Notes (continued)

5/ Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, p. 16.

6/ United Nations, Treaty Series, vol. 795, No. 11326.